AUTHORITY AND DOMINION

Volume 6

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AN ECONOMIC COMMENTARY ON EXODUS

Volume 6

GARY NORTH

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APPENDIX I

POLLUTION IN THE SOVIET UNION

Fyodor Morgun, head of the State Committee for Environmental Protection, revealed last year [1988] that air pollution in all Soviet industrial centers now exceeds Soviet safety limits and is more than ten times the permitted level in 102 Soviet cities. He also revealed (at the 19th special Communist Party conference last June) that water from the great rivers of Russia, including the fabled Volga and the Don, is now almost unusable for drinking or irrigation.[1]

Until the Chernobyl nuclear power plant accident in 1986, the West's many anti-capitalist critics had assumed that socialist societies, especially the Soviet Union, had somehow avoided the social costs of pollution. This belief was always entirely mythical. Then *glasnost* opened up the outlets for complaints within the U.S.S.R. In 1991, the Soviet Union's Communist leaders abandoned Communism, shut down the Soviet system, and absconded with the Party's money. The cash nexus proved too alluring. The bloody experiment was over. It had failed economically. It had failed politically. Only then did the Western intelligentsia at last admit defeat. They officially abandoned socialism. The Soviet Union had been their Goliath, and, like the Philistines in David's day, they fled in disarray after their representative was decapitated in full public view.

A. Disappearing Lake

When I wrote this appendix in the final years of the Soviet Union, this information was not widely known. For example, Western reporters had only recently learned of the story of the Aral Sea. This sea in northwest Uzbekistan was steadily disappearing. At one time, it was the fourth-largest inland body of water on earth. It had shrunk by 40% since 1960, leaving behind 10,000 square miles of salty desert.

Soviet developers siphoned off into the cotton fields of Uzbekistan and neighboring Turkmenia the waters of the two rivers that feed the Aral Sea, leaving these rivers little more than slow-moving sewers. The fish cannery at Muinak that had been built on the southern shore became landlocked, 30 miles from the water. No matter: the sea's commercial fishing catch had fallen to zero because of the high concentration of salt, fertilizers, and pesticides. The Muinak area remained off-limits to foreigners, including reporters. Reported the *New York Times* in 1988, "The high concentration of salt and farm chemicals in the rivers and underground water are blamed for universally high rates of stomach and liver disease, throat cancer and birth defects."[2]

B. Free Pebbles

Almost two decades before this information, like ideological toxic waste, began leaking out of the Soviet Union, Marshall Goldman, in a book-length study of pollution in the Soviet Union, detailed the devastation of the Soviet Union's environment produced by Soviet managers. Consider the Black Sea. It is the nation's prime tourist region, the warmest region of the Soviet Union, and a region close to a large body of water. There is little room for construction in the narrow coastal area, and few construction materials. "To provide the concrete and other materials needed for construction, the contractors used the pebbles and sand located along the beach. Like the Riviera coastline, much of the Black Sea shore consists of small pebbles which would whet any cement maker's appetite. Because they were free for the taking and easily accessible and because obtaining other construction materials would necessitate the extra expense of transport over the mountains, local contractors used the beach materials."[3] When men are given the use of a "free good," they are going to waste it. They mined the beach area, beginning in 1930.

What did they build? Seaports, dams, and resort buildings. The beaches began to erode after 1940. For centuries, the pebbles on the beach had acted as buffers to the power of the waves, Goldman pointed out. Now the waves crash against the shoreline, carrying away parts of the beach. The dams cut the supply of new pebbles that had come in from the mountains. In 1967, a crisis occurred near Adler, when "resort hotels, port structures, hospitals and (of all things) the

2. "Developers Turn Aral Sea Into a Catastrophe," *New York Times* (Dec. 20, 1988).

3. Marshall I. Goldman, *The Spoils of Progress: Environmental Pollution in the Soviet Union* (Cambridge, Massachusetts: M.I.T. Press, 1972), p. 156.

sanitarium of the Ministry of Defense collapsed as the shoreline gave way. . . . Elsewhere along the eastern shore in places such as Krinshch at the mouth of the Pshad River, the beach which was 100 meters (109 yards) wide in 1950 had shrunk to 15–20 meters (16–22 yards) by 1960."[4] Hotels in Pitsunda almost washed out to sea in 1970. "Only by mobilizing all the trucks in the Autonomous Republic of Abkhazia in which Pitsunda is located and diverting them to the task of carrying in rocks and other solid fill were the hotels able to survive the inundation."[5] Even some streets at Yalta are threatened.[6]

"Belatedly," Goldman wrote, "large sums of money are being spent in an effort to restore a semblance of the natural balance to the area. From 1945 to 1960, the Ministry of Transportation spent 40 million rubles to strengthen the coastline, but to no avail. Some specialists have insisted that as much as three times that amount is needed. Gravel is being hauled in from inland mountains, giant cement slabs are being embedded in the sea coast, walls are being built, and man-sized cement blocks are being dumped along the beach to replace with a buffer what has been washed away. Invariably the waves tear such fortifications apart in six to eight years."[7]

C. The Hole in the Mountain

High in the Caucasus mountains lies one of the Soviet Union's most famed resorts, Kislovodsk. Because it is sheltered on three sides by mountains, it escapes the continental weather of the Russian land mass. It is a warm-weather oasis, according to Goldman. The city has 311 days a year of sun, while another city on the other side of the mountain has only 122.[8] "Sometime after World War II, an unknown but enterprising bureaucrat from the railroad ministry strode into this idyllic scene. His mission was to increase the volume of railroad freight shipments in the area. He discovered that the mountains and hills in the area were rich in limestone. Without asking anyone, he arranged for the construction of a lime kiln at the Podkumok railroad station near the narrow gorge. 'It was a small operation and in the beginning nobody paid any attention to it. When people finally did ask what was going on, it already appeared to be too late to do anything

4. *Ibid*., pp. 158–59.
5. *Ibid*., p. 159.
6. *Ibid*., p. 160.
7. *Ibid*., pp. 161–62.
8. *Ibid*., pp. 163–64.

about it. The railroad and kiln operators met all arguments with, "We are a productive enterprise. Our product is sent all over. We have an assignment and we are fulfilling our plan."' (*Izvestia*, 7/3/66, p. 5.)"[9] Result: the gorge widened, and the winter weather of the north hit Kislovodsk. The dust level has risen drastically: one and a half times the allowable limit in a *non-resort* city. "On the one hand the state invests millions of rubles in new tourist facilities in Kislovodsk, while on the other hand the state destroys the very thing that makes it attractive. Moreover the destroyers are not only being paid a good salary for their vandalism but they are winning premiums for doing so in the name of 'socialist competition.'"[10]

D. Lake Baikal

Lake Baikal is the largest fresh water lake in the world, holding about one-sixth of all the fresh water in the world. It is 45 miles wide and 385 miles long. Until the early 1970s, socialist enterprises used it as a free disposal unit for effluents of all kinds, including human sewage. The fish catch dropped 55% from 1945 until 1957.[11] In 1958, a plan to industrialize the Lake Baikal region with pulp and cellulose mills became official. There were a few sporadic pamphlet protests, to no avail. Only in 1962 did these plans become public. Several official agencies protested over the next few years, but the plans went forward. The plants were built, redesigned, and were found uneconomical. They had been built because the lake's water was pure; steadily, this purity dropped. A water treatment facility was built. Costs of construction doubled. The process did not work. Islands of alkaline sewage have been observed floating near the lake's surface—one of them 18 miles long and three miles wide.[12] Russian timber trusts stripped parts of the region bare. Soil washed away. Silt now flows into the lake. No one knows now if this ecological devastation will be reversed. Lake Baikal's crisis was matched by the crisis of the Baltic Sea.[13]

About the time that Goldman's book was published, a serious effort was begun to clean up Lake Baikal. A ban was placed on fishing certain rare fish in the lake, the golomyanka. The result was that two-thirds of the human population around the lake had to move. The

9. *Ibid.*, p. 164.
10. *Ibid.*, p. 165.
11. *Ibid.*, p. 182.
12. *Ibid.*, pp. 200–1.
13. *Ibid.*, p. 285.

fishermen could no longer make a living.[14] The trade-off between employment and ecology was as inescapable in the Soviet Union as it is in a free market economy.

E. Bureaucracy vs. Bureaucracy

Protests against ecologically disrupting practices are almost always made by a government or government-run agency. "When a government newspaper decides to publish a letter to the editor or it commissions a writer to publish such an attack, this usually indicates the existence of an interagency squabble." Goldman said these attacks were quite common, but no one is clear about how officials make a decision to protest.[15] "Moreover, there were no independent conservation groups like the Sierra Club or the League of Women Voters, which scrutinize the country like watchdogs looking for such abuses." When a debate emerged publicly, the bureaucratic feuding had to be intense, or else the consequences would be far-reaching.[16]

Goldman's summary of the differences between ownership in the two societies is very important. *Private ownership is the first line of defense against pollution*.

> In a socialist society it would seem that it would be more difficult to stimulate preventive action in both the case of public and private social costs. Because private land ownership is prohibited in the USSR, the individual has less of a vested interest in fighting the construction of a new factory in his neighborhood or the mining of some raw material in the area. Except when a state-owned factory finds that its operating costs are substantially and directly altered by another factory's pollution, protest must depend on social consciousness, and not on the actions of private property holders who respond out of the fear of a private loss. Of course, social consciousness can be very effective, as has been demonstrated by the success of such groups as the Sierra Club and the League of Women Voters. Nevertheless, the elimination of the private property holder and his accumulating instincts often means the elimination of the first line of defense against the expansion of environmental disruption.[17]

Geographer Philip Pryde's assessment of the Soviet Union's anti-pollution program was less critical than Goldman's, but it still made the fundamental point: Soviet attempts to clean up the environment were late and discoordinated at best, half-hearted generally, and de-

14. Associated Press story, *Tyler Courier-Times* (Feb. 10, 1985).
15. Goldman, *Spoils*, pp. 185–86.
16. *Ibid*., p. 186.
17. *Ibid*., pp. 74–75.

liberately reactionary in far too many cases.

> First, there is only one effective lobby in the Soviet Union, and that is the fully understood and immutable emphasis on industrial expansion. The voices of conservationists, while present, are weak by comparison, and certainly hold no threat of voting an unreceptive Central Committee out of office.
>
> This represents an important distinction between the United States and the U.S.S.R. If, in the United States, private enterprise displays poor conservation practices, there are still two avenues of recourse open for correcting the situation—public opinion and government regulation. But if the Soviet central planning mechanism is lax in these regards, there is no effective avenue of recourse. The Party-government supervision of both resource exploitation and environmental conservation has strong built-in conflicts of interest, and brings to mind the analogy directed by some toward our own Atomic Energy Commission of "foxes guarding henhouses."[18]

The sheer size of the Soviet planning bureaucracy inhibited the implementation of new, pollution-control technologies, he concluded.[19] Furthermore, Marxist ideology saw pollution as a problem only of capitalist societies. "On the other hand, it is believed that a socialist economy, faced with the obligation to plan centrally the use of all its resource wealth, will necessarily do so in the wisest possible manner."[20] This attitude, coupled with the Marxist emphasis on economic growth, led to a lack of interest in creating institutional mechanisms —economic, legal, or political—to reduce pollution.

F. The Poverty Factor

Goldman did not mention it, but, by keeping people poor, socialist societies create an atmosphere that is more favorable to pollution, for it is only as men's wealth increases that they believe that they can afford the reduction in per capita output that pollution-control usually involves. Were the Soviets really that poor? Yes. Goldman's statistics on the availability of running water in homes gave us an indication of the tremendous discrepancy between the productivity of the respective economic systems. In 1960, only about 38% of city housing in the Soviet Union had running water, and 35% had sewers.[21] By the late 1960s, only 50% of the Soviet Union's urban homes had running water that was sup-

18. Philip R. Pryde, *Conservation in the Soviet Union* (Cambridge: At the University Press, 1972), pp. 162–63.

19. *Ibid.*, p. 163.

20. *Ibid.*, p. 165.

21. Goldman, *Spoils*, p. 106.

plied by a central community source, as compared to 70–75% of U.S. citizens. Most other Americans had electrically operated water pumps for their homes' running water; these were unheard of in the USSR.[22]

The newer apartments in the USSR had running water, which indicated the existence of a policy to force people into apartments—a housing policy that was common in socialist nations.[23] If we include apartment buildings in the "urban housing fund," then 73% of the residential units had running water, and approximately 70% were connected to sewers in the late 1960s.[24] On the collective farms, under 3% had running water, and under 2% on the state farms.[25]

By the end of the 1980s, the Western press began to report on the sorry condition of the Soviet economy. The Soviet economy was much weaker than Western experts had estimated.[26] It ran massive budget deficits that had not shown up in official figures or in Western estimates (with a few exceptions).[27] By 1989, Judy Shelton's book appeared, predicting a crash.[28] She was almost alone in her opinion. That year, the economy did crash, and it never recovered. Two years later, Soviet Union collapsed. This caught the West by surprise. Especially surprised were the economists.

Years earlier, journalist Richard Grenier's description of the USSR had said it best: "Bangladesh with missiles." His peers in the West did not believe him. They had wanted so desperately to believe that socialism could compete with the free market. Then the Soviet Union did the unforgivable. It committed suicide.

Conclusion

The modern socialist states never did demonstrate that they were capable of dealing with the growing problem of pollution in a technological society. The free market creates incentives for people to protest against those who are transferring part of their production costs to private citizens who do not share in the benefits. It allows the

22. *Ibid*., p. 107.

23. On this policy in Sweden, see Roland Huntford, *The New Totalitarians* (New York: Stein & Day, 1972), ch. 12.

24. Goldman, *Spoils*, pp. 107–8.

25. *Ibid*., p. 108.

26. Nichaolas Eberstadt, "The Soviet Economy: Worse Than We Thought," *New York Times* (Nov. 23, 1988).

27. Igor Birman, "Kremlin Red Ink (And You Thought We Had a Deficit Problem)," *Wall Street Journal* (Nov. 15, 1988).

28. Judy Shelton, *The Coming Soviet Crash: Gorbachev's Desperate Pursuit of Credit in Western Financial Markets* (New York: Free Press, 1989).

creation of independent knowledge-distribution media that mobilize people. It allows private citizens to challenge polluters. Socialist monopolies were not so easily challenged by private citizens or associations in socialist commonwealths.

APPENDIX J

LOTS OF FREE TIME: THE EXISTENTIALIST UTOPIA OF S. C. MOONEY

Another popular excuse for usury is that it is no different than rent. It is said that "interest" is merely rent on "money," and that if rent is assumed to be legitimate, then usury would have to be considered legitimate as well. . . . The economic similarity between usury and the rent of property readily is admitted. However, this close connection does not serve to legitimize usury, as Locke et al suppose; but to condemn rents . . . . [I]t is not lawful for one to sell the use of his property (rent).

S. C. MOONEY[1]

In this appendix, I shall consider the economic logic offered by a promoter of a zero-interest economy. There are two groups of these promoters. Members of the first group say that a zero-interest economy could be attained if people simply loved one another sufficiently. Interest on loans is an example of oppression and needless cruelty, they say. These people are pure utopians. They cannot point to any society in history in which such an economics of love has ever existed. Members of the second group argue that the civil government ought to intervene and punish those who lend at interest.

I have argued in Chapter 49 that the zero-interest promoter is the intellectual equivalent of a self-proclaimed scientist who insists that a perpetual motion machine is possible. The world generally recognizes such a person as the classic literary mad scientist. The second law of thermodynamics testifies against these poor souls. They are considered harmless cranks in a world in which it takes energy to turn a crank. In contrast, a promoter in the second group of zero-interest enthusiasts is far more dangerous than the lovable mad scientist. He is like

1. S. C. Mooney, *Usury: Destroyer of Nations* (Warsaw, Ohio: Theopolis, 1988), pp. 172, 173. Italics added.

a crackpot physicist who insists that *only* perpetual motion machines should be legal. He is the classic defender of something (the use of an asset over time) for nothing (no rental fee). He says that the world can construct an honest, fair, and productive economy by making interest payments illegal. He says that the state should legislate his utopia.

Again, let me apologize in advance for filling up space in this commentary with arguments against nonsense. If this nonsense, or nonsense quite similar to it, had not been offered in the name of the Bible for about a millennium and a half, I would not bother to comment on it. Life is too short, and this book is too long. But the lure of crackpot theories of interest has been with us for a long, long time; first, under the authoritarian rule of ancient and medieval clerics in an era before economics was an intellectual discipline, and second, under the hoped-for rule of amateurs who resent the very thought of economics as an intellectual discipline, and who have therefore never taken an economics course in their lives.[2]

Before I begin my analysis, let me also say that, in one sense, it is legitimate to call for a restructuring of economics by revising interest theory. In fact, it is imperative. Böhm-Bawerk's path-breaking *History and Critique of Interest Theories* (1884) certainly set forth economic principles that were instrumental in making possible a major revision of economics. But let me also say that it is insufficient to offer a new theory of interest—or even a revived version of Aristotle's theory, dressed in swaddling clothes—without restructuring all of economics. Like value theory and price theory, interest theory is at the heart of economic theory. In fact, price theory apart from a theory of interest is dead before it begins. It does no good for a self-proclaimed economic revolutionary to offer a wholly new theory of interest and then not explain exactly how his interest theory is to be integrated into the whole of economics. The economist must show that economic reasoning as such is still possible in terms of his proposed interest theory. This is what Böhm-Bawerk did in the late nineteenth century. This is what not even one of the zero-interest theorists has ever attempted.

I wrote the preceding section in 1990. A year later, Mr. Mooney responded in a long, incoherent essay, "Mooney Answers North." I did not see this response until it was posted on the Web. I came across it sometime around 2008, I think. He ended with these words:

2. I suggested to Mr. Mooney in a letter that he had never taken a course in economics in college, and he admitted to me in his written reply that he had not. Some things are obvious on first reading.

> The absence of a comprehensive new economic theory does not prove that my thesis in *Usury: Destroyer of Nations* is wrong. Rather, the biblical soundness of my thesis proves that a comprehensive theory is needed. Nor do I regard the task of producing one as my own toy exclusively. Any one who is committed to a radically biblical approach to all of theoretical thought is qualified to contribute to this work. I would be happy to interact on the many important issues surrounding this task with any, including Dr. North, who would be so motivated. I thank Dr. North for the challenge, and look forward to an economic theory that finally brings glory to God.[3]

So do I, but such a theory had better not begin with either of these premises: (1) there is no scarcity; (2) time is free.

It is now over two decades since Mr. Mooney's book appeared. He has yet to explain how his theory fits into a general theory of economics. He is like a Dutchman who recommends blowing up all the dikes, but when asked how he proposes to keep the sea from inundating the land, answers that he has no idea, but he is happy to discuss the topic if anyone has some suggestions.

I do not believe that a person has to earn a Ph.D. in a particular field in order for him to have an academic impact in that field.[4] I do believe that a person needs to demonstrate the same degree of intellectual self-discipline and accomplishment that a Ph.D. degree requires before he thinks himself competent to restructure the whole world from behind his computer. It is not the formal degree that counts; it is the years of thankless work in the shadows that are required to produce a successful paradigm shift. It is this price that the monetary cranks are not willing to pay. They offer us half-finished blueprints for 80-storey skyscrapers before they have built a tree house, and then they demand that the world's architects give them a polite hearing.

A. Mooney on Rent and Interest

I offer my comments for your consideration, not because the Christian public has ever heard of Mr. Mooney's book, nor because the book is coherent in its analysis, which it is not, but because it is one more primary source documenting a very strange phenomenon: Christians who think they are ready to overturn the modern intellectual world with their very first book by announcing outrageous and undeveloped theories with shock value. They offer "fringe" theories, but without any suggestion about how these theories might become

3. Sadly, this document was pulled from the Web sometime after 2012.
4. Examples: John Maynard Keynes, Roy Harrod, Gordon Tullock.

the foundation for governing at the center of a society. They offer fringe theories that are destined to keep their disciples—if any—forever on the cultural, intellectual, and perhaps even emotional fringe. They offer preliminary findings that would require a lifetime of disciplined effort in order to make their conclusions even vaguely plausible, and then they stand back and announce: "The world now must refute me, or else I win by default." Well, the world does not have to refute them; they will not win by default. However, the sake of argument—and for the sake of intellectually immunizing the reader, who may have a fondness for fringe hypotheses (a weakness I occasionally share)—I will offer a few observations.

Mr. Mooney called for an economically just world, one which is devoid of both rents and interest payments, just as John Maynard Keynes did. Since I have responded to the main thrust of Mr. Mooney's arguments in Chapter 49, there is no need of going over the same material. We need to go right to the "soft underbelly" of his critique of interest. Mooney insisted that, from a biblical perspective, "it is not lawful for one to sell the use of his property (rent)."[5]

1. Rental Income and Interest Income

Say that a person has a sum of money to invest. He sees two possibilities. He can buy a piece of real estate and then lease it out for a decade. Alternatively, he can buy a 10-year bond and get paid by the bond-issuer. Let us say that the rate of interest on the bond is 5%. How much must a would-be renter have to offer him in order to persuade him to rent it to him? Assuming that the property owner expects no entrepreneurial profits from the appreciation of the real estate, the renter will have to offer him something in the range of 5% of the market value of the property. Why? Because in each case, the bidders—the would-be renter and the would-be bond seller—are competing in the market for the use of his wealth. They must offer competitive bids, as with any auction. They bid in terms of a promise: so much future income per annum. This competitive bidding process is why economists have long concluded that the rate of interest on a money loan produces a percentage rate of return that will be competitive with a comparably risky investment in income-producing real estate. In short, *interest income equals rental income on a competitive free market*.

So, Mr. Mooney's argument against the biblical legitimacy of interest income necessarily lives or dies with his conclusion that income

5. Mooney, *Usury*, p. 173.

from rental property is also prohibited by the Bible. If rental income is allowed, then there seems to be no economic reason why interest income from a collateral-secured loan is not also allowed.

2. The Jubilee Year

Mr. Mooney's conclusion that rent is biblically illegitimate is in direct opposition to the economic terms of the jubilee year, which specified that anyone could lawfully rent his life and his property to another person for a period of time. In other words, a buyer could lawfully contract with a seller for the latter to supply him with a stream of income—labor income or agricultural income. In either case, when a kinsman bought the land or the person out of bondage (the contract), he had to pay the leaseholder a *pro-rated price* based on the number of years remaining until the jubilee year. This, it should be obvious, was a rental contract. Not only was it legal, it was legal even for unbelieving resident aliens to buy up to 49 years of future labor services from poverty-stricken Hebrews or 49 years worth of agricultural income.

> If thy brother be waxen poor, and hath sold away some of his possession, and if any of his kin come to redeem it, then shall he redeem that which his brother sold. And if the man have none to redeem it, and himself be able to redeem it; Then let him count the years of the sale thereof, and restore the overplus unto the man to whom he sold it; that he may return unto his possession. But if he be not able to restore it to him, then that which is sold shall remain in the hand of him that hath bought it until the year of jubilee: and in the jubilee it shall go out, and he shall return unto his possession (Lev. 25:25–28).[6]

> And if a sojourner or stranger wax rich by thee, and thy brother that dwelleth by him wax poor, and sell himself unto the stranger or sojourner by thee, or to the stock of the stranger's family: After that he is sold he may be redeemed again; one of his brethren may redeem him: Either his uncle, or his uncle's son, may redeem him, or any that is nigh of kin unto him of his family may redeem him; or if he be able, he may redeem himself. And he shall reckon with him that bought him from the year that he was sold to him unto the year of jubilee: and the price of his sale shall be according unto the number of years, according to the time of an hired servant shall it be with him. If there be yet many years behind, according unto them he shall give again the price of his redemption out of the money that he was bought for (Lev. 25:47–51).[7]

6. Gary North, *Boundaries and Dominion: An Economic Commentary on Leviticus*, 2nd ed. (Dallas, Georgia: Point Five Press, [1994] 2012), ch. 27.

7. *Ibid*., ch. 32.

When a kinsman-redeemer paid the leaseholder for the land, he deducted the yearly price paid by the leaseholder so far. He then made a cash payment for the time remaining on the lease. A lease is a form of rent. It is rent tied to a contractual time limit. If there was no biblical right of rent, then why did the kinsman-redeemer owe anything to the person controlling the land? Why did biblical law require him to pay off the contract? This contract was biblically illegal, according to Mr. Mooney. Yet biblical law required the payment of a redemption price. If Mr. Mooney was correct, then biblical law sanctioned the payment of that which biblical law prohibited: rent. Mr. Mooney did not see this when he wrote his book, and in his 1991 reply, he did not explain how this was possible under the Mosaic law.[8] He argued instead that the lease in Leviticus 25 was not rent in the modern sense, because the person selling his land was in a poor condition, whereas a person renting out land today is in good economic condition. In other words, he defined away the analytically identical payments—money paid in advance for the use of property—in terms of comparative wealth. He wrote in 1991, "What we know of as the rental of real property involves a landowner who is wealthy (that is why he has land to for rent) and a poor tenant, who has no land of his own (that is why he must rent from a "lord.").[9] Yet a corporation may lease a fleet of cars or a fleet of anything else. This is quite common. Corporations lease property from owners all the time. Middle-class investors can pool their capital and buy railroad freight cars to lease to a railroad. The railroad locks in the use of the cars over a fixed period of time. The economic fact is this: *someone who gives up the use of his wealth without selling it outright asks for payment during the forfeited use period*. The economic analysis of this exchange is not affected by the comparative wealth of the participants. In a free market, buyers compete against buyers. Sellers compete against sellers. Similarly, he who rents out property competes with others who rent out property. He who rents the use of property competes with others who do the same. This economics of exchange has nothing to do with the comparative wealth of the person who rents out the property vs. the person who rents it from him. One party wants money income; the other wants the use of the property. Yet Mr. Mooney argued that, unless the sale is permanent, there can be no biblically valid exchange of money for use. He then applied this argument to the payment of interest.

8. Mooney, *Mooney Answers North*, pp. 24–25.

9. *Ibid.*, p. 25.

At least he is consistent, which is why I singled him out in 1990. If a reader sees that Mr. Mooney's argument against the legitimacy of rent is logically unsustainable, he may find it easier to see that Mr. Mooney's argument against the legitimacy of interest is equally unsustainable. Anyway, I hope so.

If a man wants 5% per annum, he can do it in either of these two ways: buy a piece of land and rent it out, or buy a bond, and get paid by the seller. The rate of return is the same. If the first transaction is biblically legitimate—and it is—then so is the second.

3. A Strategy of Selective Quotation

It is worth pointing out that Mr. Mooney's book includes comments on Leviticus 25:2–7, 15–16, 35–37, and 39–45. He scrupulously avoided mentioning verses 25–28 and 47–51—verses that refute his conclusion regarding the supposedly biblically illegitimate nature of rental income. He freely admitted that the economists are correct, i.e., that rental income is the same as interest income: a payment for the use of an asset over time, said Böhm-Bawerk, whom he quoted favorably on the question of the equivalence of rental income and interest income.[10] Then he tried to justify his universal condemnation of interest income by laying down an equally universal condemnation of rental income. The problem is, the Bible clearly honors the legitimacy of rental income: a stream of income, either labor income or land income, which one receives when he purchases an income-producing asset for cash (i.e., capitalization). Mr. Mooney's answer to this dilemma was simple and direct: he refused to cite that portion of the Bible that categorically destroys his argument.

He wrote that it is immoral to collect income from any form of property. While Mr. Mooney was sufficiently astute tactically not to spell out the implications of this statement—in this regard, he followed the lead of his predecessor, Mr. Keynes—what he really meant was that it is illegal biblically to seek a positive rate of return by loaning someone money to buy a house, and it is also illegal biblically to rent him a house. You are morally obligated to give him the use of the loan, interest-free, or the use of the house, rent-free. This is the economics of love.[11] It is also a classic crank prescription for creating a society of homeless people.

10. Mooney, *Usury*, p. 172.

11. This is the assertion of Mr. Mooney and his publisher, Mr. Wiley: *ibid.*, pp. iii, 231–34.

He wrote the book specifically to refute me, as his footnotes and text reveal. He had read (but had not understood) my view of time-preference as the true origin of interest. He recognized that I am following Böhm-Bawerk and Mises on this point: that there is always a *discount for cash* when you purchase an expected stream of future services. People discount the present value of expected future goods in comparison to the same goods in the present. Because of this, no rational person will pay 1,000 ounces of gold, cash, for a gold mine that is expected to produce 1,000 ounces of gold, net, after mining expenses are deducted, over the next year, 10 years, or 1,000 years.

B. The "Present" Is Mostly in the Future

Mr. Mooney argued that there are no future goods but only present goods. In one sense, he was correct. I would put it this way: "The present is all that any man can be certain he has, moment by present moment." He put it this way: "*Future goods do not exist*. There are only present goods in external reality."[12] The author believed that he had somehow refuted the concept of the inescapable discount applied to future goods. He did not.

1. No Future Goods

Future goods are not real in the present, he said; therefore, they do not command a cash price. He did not recognize, for one thing (among many, many others), that this non-existence of future goods is a very good reason why there is always a *risk premium* in free market interest rates: the promised future goods may not actually be returned to the lender. So, the lender charges an interest payment to compensate him from this risk of default. Instead of acknowledging this obvious fact, the author concluded: "Since the contemplation of 'future goods' is characterized by idealism, one may not actually compare 'present goods' and 'future goods' for purposes of economic calculation. The preference that is dictated by the discount of the 'future goods' cannot be avoided because one cannot possibly call upon an idea in his mind to serve a purpose that only a concrete object can serve."[13] This is the economics of love. It is also the economics of incoherence.

To the extent that I can make any sense of this argument, I think he was saying that future goods, not being *physically* present, are there-

12. *Ibid.*, p. 207.
13. *Idem*.

fore irrelevant for present decisions. So much for the biblical doctrine of eternal judgment in the afterlife! Mr. Mooney regarded the concept of future goods in much the same way as the covenant-breaker regards the concept of eternal punishment. "If it ain't here now, it ain't relevant now." This is a fanatical form of *present-orientation*, the outlook of the lower-class individual.[14] He made himself as clear as he could on this point: "The point is that 'future goods' vs. 'present goods' presents no *real* choice. The two cannot be compared in value as though they were different quantities of the same class of goods. In truth, the choice of goods for meeting one's needs is a choice of presently available goods. One present good compares only to other present goods."[15] The clearer he becomes, the more preposterous he sounds.

2. What's the Point?

Fact: the present moment—a "point in time"—is as philosophically and operationally undefinable a phenomenon as a Euclidian point (an infinitesimal, no-dimensional section of a sequential phenomenon, a line). The fact is, we really cannot fully describe the pure instant in time that we call "the present." Anyway, I cannot, and surely Mr. Mooney did not attempt to do so in his book. What we call "the present" is in fact the *relatively more immediate future*. I cannot do everything I would like to do right now. I have to pick and choose my decisions through time. I must order my choices: first, second, and third in the future, and even this ordering process takes time.

Therefore, when I make a decision regarding the present cash value of any good, I make this evaluation moment by moment as I move through time. I make it in terms of whatever value I place on a future stream of services or pleasures that I expect to receive from the physical or the contractual item.[16] The "front end" of this stream

14. See Edward C. Banfield, *The Unheavenly City* (Boston: Little, Brown, 1970), pp. 53–54.

15. Mooney, *Usury*, p. 207.

16. Mr. Mooney tried to argue exclusively from the physical. But I as a lender may not want to own the physical object, such as a farm. I may prefer to own a promise to pay (mortgage) made by the owner of the farm, with the farm serving as legal collateral should he default on his promise. If he defaults, I will probably try to get someone else to buy the farm and make me another promise. Yes, the contract may be based on the productivity of the farm, as administered by someone, but the focus of my concern may be the promise, not the physical asset itself. Perhaps the person decides to get out of farming and use the property as a resort, or as a consumer good. I care only about the promised payment, so long as his decision regarding the use of the land does not reduce its collateralized market value.

of future services is close at hand; how long it will continue to flow is guesswork. The initial flow of services may in fact be somewhat removed, as indicated by the warning in the fine print on the side of the box, "some assembly required." The beginning of that expected flow of services may be a day away or a week away or a year away. The point is, *there is just barely a "now" in any economic decision*. There are only present expectations of varying degrees of the future. So, contrary to Mr. Mooney, who insisted that there are no future goods in the present, I insist that from a rational decision-maker's point of view, there are *mostly* future goods in the present—and this "mostly" is very, very close to *only*.

3. Infinite Interest Rates

If everyone were to conclude that the expected future stream of services provided by physical goods is irrelevant for present economic calculation, as Mr. Mooney insisted that it is, then *free market interest rates would approach infinity*, for no one would voluntarily give up present goods for the sake of receiving economically "irrelevant" future goods. Also, the price of durable capital goods and durable consumer goods would fall almost to zero, for no one would value them for the sake of their expected future productivity, meaning any expected value three seconds away. Or two seconds away. Or a split second away. In short, we would say goodbye to civilization. This is the "economics of love." It is also the economics of existentialism: the philosophy of the autonomous moment.

C. Decapitalization

I single out Mr. Mooney's analysis because he is the only person I have ever seen who so forthrightly confronts the issue of time-preference in his denial of the moral legitimacy of interest. He offered economic nonsense—incredibly naive nonsense—in his attempted denial of time-preference in human action; to oppose the Fetter-Mises view of interest is necessarily to argue nonsense. It is the stark reality of Mr. Mooney's nonsense that is so impressive. He made it clear that if you refuse to go with Mises on the question of time-preference, you logically must wind up with Mooney's view regarding the economic irrelevance of the future.

If society were to adopt Mr. Mooney's view, and then attempt to enforce it by civil law, it would decapitalize itself. Rushdoony's eloquent explanation of capitalization and his warnings regarding de-

capitalization should be taken seriously: we must choose between Christianity and existentialism.

> Capitalization is the product of work and thrift, the accumulation of wealth and the wise use of accumulated wealth. This accumulated wealth is invested in effect in progress, because it is made available for the development of natural resources and the marketing of goods and produce. The thrift which leads to the savings or accumulation of wealth, to capitalization, is a product of character. Capitalization is a product in every era of the Puritan disposition, of the willingness to forego present pleasures to accumulate some wealth for future purposes. Without character, there is no capitalization but rather decapitalization, the steady depletion of wealth. As a result, capitalism is supremely a product of Christianity, and, in particular, of Puritanism, which, more than any other faith, has furthered capitalization.[17]
>
> Today, however, the mood of modern Western man can best be described as existentialist. It subscribes to a philosophy in which the "moment" is decisive. It is not future oriented in that it does not plan, save, and act with the future in mind. The existentialist demands the future now. Some of the causes which concern student rebels may be valid, but their existentialist demand that the future arrive today make them incapable of capitalizing a culture. Existentialism requires that a man act undetermined by standards from the past or plans for the future; the biology of the moment must determine man's acts.
>
> Very briefly stated, existentialism is basically lower class living converted into a philosophy. It is, moreover, the philosophy which governs church, state, school, and society today. The "silent majority" has perhaps never heard of existentialism, but it has been thoroughly bred into it by the American pragmatic tradition of the "public" or state schools.
>
> Our basic problem today, all over the Western world, is that Western civilization no longer has a true upper class at the helm. Future-oriented men no longer dominate society, politically, economically, religiously, educationally, or in any other way. Instead, dreamers who are basically lower class, who believe that political power can convert today into tomorrow, are in charge. The result is the domination of our politics by an economic policy which is the essence of the lower class mind and which leads to radical inflation. Spending today with no thought of tomorrow is a lower class standard, and this is the essence of our modern scene. The vocal minority and silent majority are both deeply in debt, and they create national economies which are deeply in debt. The growing anarchism of our social life is a product of this same lower class mentality. This popular anarchism is a refusal to submit to law and discipline, and unwillingness to accept any

17. *Chalcedon Report* (April 1967). R. J. Rushdoony, *The Roots of Reconstruction* (Vallecito, California: Ross House Books, 1991), p. 591.

> postponement of hopes and dreams. It is closely related to tantrums of a child who demands his will be done now. Every major social agency today, church, state, school, and home is dedicated to creating this anarchistic, lower class mentality.[18]

Mr. Mooney's view of time-preference is existentialist and lower class to the core. He no doubt failed to understand this. His recommended policies would destroy civilization. He no doubt failed to understand this, too. Such is the fate of the compulsory economics of love. The road to economic hell is paved with good intentions.

He said that my views are incorrect because I rely on the Austrian School economists for insights into time-preference. Were he more familiar with the history of economic thought, he would recognize the origin of his own ideas: the worst of Aristotle and the worst—economically, I mean—of John Maynard Keynes.

Conclusion

Every new movement that calls for a transformation of thought or culture will attract its share of fringe figures. The more publishing-oriented it is, the more it will attract people looking for the bogus immortality that the printing press appears to provide. I call this phenomenon the graffiti syndrome. It is the same temptation that persuades people of more limited literary aspirations to carve "John loves Mary" on public school desks, or limericks on the inside of lavatory doors. The Fabian movement in England is a good example of the sometimes fatal attractiveness of publishing: occultists, vegetarians, free love advocates, feminists, and screwballs of all varieties were drawn to the Webbs like midnight moths to a candle.[19] All of them were looking to become part of the "wave of the future." Only a few of them survived the test of time, to become remembered as the founders of yet another failed social religion.

Anyone can hang out a sign which announces that he is a Christian Reconstructionist. There is no licensing required. Not many people choose to do this, since to join the tiny band of theonomists today is to become a modern-day John the Baptist, typing in the wilderness. But what should make a reader more than a little suspicious of anyone who claims to be a theonomist is the promoter's narrow range of

18. *Chalcedon Report* (August 1970). Rushdoony, *Ibid.*, pp. 716–17.

19. The most uproarious descriptions of the pontificating Webbs are found in Malcolm Muggeridge's two-volume autobiography, *Chronicles of Wasted Time* (New York: Morrow, 1973–74). He was married to Beatrice Webb's niece.

concern. Specialization is legitimate, but anyone who claims that he is offering a revolutionary blueprint for this or that aspect of society had better also offer at least a first draft of the overall integrated plan. The old rule of ecology is true: *you cannot change just one thing*. You cannot reconstruct just one aspect of society, or just one aspect of an economy. For example, if you suggest a zoning code that makes sewers illegal, you had better strongly recommend the installation of septic tanks; otherwise, you can expect considerable overflow problems.

Again, I do not expect any society to adopt Mr. Mooney's baptized Aristotelianism. If it does, it will not remain productive very long. What does concern me is that a lot of well-meaning Christians will take such nonsense seriously, assume that it is "truly biblical" economics, and then try to "spread the gospel" of crackpottery in the name of Jesus. This would be an embarrassment to the kingdom of God generally and Christian Reconstruction specifically. We Christians are already regarded as otherworldly dreamers. Let us not provide additional ammunition to our enemies.

But if you are not convinced by the logic of my presentation, I would like to borrow some money from you, interest-free, for 10 years. Or just let me take control over your house, rent-free, for a decade. Either is fine with me. Drop me a note if you are interested. This is the loving thing to do, according to Mr. Mooney, and I would sure love it if you do it!

APPENDIX K

SLAVERY IN THE AMERICAN SOUTH

> *Knowing this, that the law is not made for a righteous man, but for the lawless and disobedient, for the ungodly and for sinners, for unholy and profane, for murderers of fathers and murderers of mothers, for manslayers, For whoremongers, for them that defile themselves with mankind, for menstealers, for liars, for perjured persons, and if there be any other thing that is contrary to sound doctrine.*
>
> I TIMOTHY 1:9–10

The Western slave system, beginning in the mid-fifteenth century, was based on kidnapping. Western slave traders paid Africans who lived on the West Coast to send their native troops inland and kidnap members of other tribes. The trade existed because the slave traders sold their kidnapped victims to final buyers. These final buyers were, legally speaking, in receipt of stolen goods. In terms of economic analysis, the customers initiated the trade. Had their been no buyers, the trade would not have existed. As surely as the men who purchase sex from prostitutes are the perpetrators, with or without the presence of pimps, so were the buyers of the slaves.[1]

The Mosaic penalty for kidnapping was death (Ex. 21:16).[2] Paul listed manstealing as one of the crimes of the Mosaic law. It therefore carries into the New Testament. If a Mosaic law carries into the New Testament, then so does its civil sanction. So, in terms of the Bible-re-

1. It is worth noting that one of the most popular songs of Rolling Stones band, always played at their fabulously profitable world tours, is *Brown Sugar*, which celebrates an aging slave owner in ante-bellum New Orleans, who uses teenage slave girls as sexual bondservants. Only because Mick Jagger's enunciation has never been able to be understood has this travesty gone on for four decades. At least, I hope this is the explanation.

2. Chapter 34.

vealed law of God, everyone connected with the slave trade should have been executed on conviction: tribal chieftains, slave traders, brokers/auctioneers, advertisers, and of course the owners.

Of course, no one was tried for this crime. It continued for four centuries. A culturally and morally revolutionary change of opinion began with the Society of Friends in England around 1755. The institution of private chattel slavery was successively challenged in the United States by means of Christian ethics, then Unitarian ethics, and then civil war (1861–65). The system ended in the United States in 1865 with the defeat of the Confederacy. It ended in the West in 1888, when Brazil abolished it.

A. The Ante-Bellum Debate Over Slavery

The slave system of the American South made no provision for the slaves to earn their freedom, nor did it allow slaves to go free in the seventh year. The Levitical system of inter-generational slavery for foreigners (Lev. 25:44–46) was definitively abolished by Jesus in Luke 4,[3] but no abolitionist invoked this passage. The system did not survive, among other things, the onslaughts of the West's evangelical preaching,[4] New England's Unitarian abolitionist moralizing, South Carolina's self-immolating secessionist hot-heads, the Confederacy's self-destructive hyperinflation,[5] mass-produced Yankee weaponry, and the North's superior numbers of soldiers.[6]

The debate over the biblical legitimacy of slavery in the South escalated in the mid-nineteenth century.[7] But this shift toward abolitionism in the thinking of Christians in the North was not originally the result of changes in orthodox Trinitarian theology. As I mentioned earlier, the first group to change its views was the Society of Friends (Quakers), who certainly did not emphasize the Trinity. It

3. Gary North, *Treasure and Dominion: An Economic Commentary on Luke*, 2nd ed. (Dallas, Georgia: Point Five Press, [2000] 2012), ch. 6.

4. Bertram Wyatt-Brown, *Lewis Tappan and the Evangelical War Against Slavery* (Cleveland, Ohio: Case Western Reserve University Press, 1969).

5. Richard Cecil Todd, *Confederate Finance* (Athens, Georgia: University of Georgia Press, 1954), ch. 3.

6. Richard N. Current, "God and the Strongest Battalions," in David Donald (ed.), *Why the North Won the Civil War* (New York: Collier, 1960).

7. See, for example, Thornton Stringfellow, "A Brief Examination of Scripture Testimony of the Institution of Slavery" (1841, 1850). See also Erik L. McKitrick (ed.), *Slavery Defended: The Views of the Old South* (1963) and John L. Thomas (ed), *Slavery Attacked: The Abolitionist Crusade* (1963), both published by Prentice-Hall, Engelewood Cliffs, New Jersey.

would be much easier to defend the argument that the advent of the Industrial Revolution in the late eighteenth century was a far greater factor in the rise of abolitionism than the pioneering efforts of the great theologians of the world, who never pioneered abolitionism anyway. Cheap mechanical labor no doubt made it less expensive for men whose societies benefitted from these technological developments to consider at long last the possibility of freeing other men's human slaves without suffering substantial decreases in economic production and national wealth. Yet it was the rise of industrialism, especially in the cotton trade, that made Southern slavery vastly more profitable—that, plus the cotton gin.

A team of four historians demonstrated in *Why the South Lost the Civil War* (1986) that the South's morale began to falter after the military defeats of July, 1863 (Vicksburg and Gettysburg), and then accelerated in the fall of 1864. Preachers began to call into question the original righteousness of the Confederate cause. When, in early 1865, the Confederate government voted to allow slaves to be brought into the army, with the understanding that the slaves would have to be promised their freedom if they served faithfully, the case for any supposed "innate slave mentality of the Negro" collapsed. Nobody wants to be defended militarily by men who are innate slaves.

Even before the war ended, the war to defend slavery had been reinterpreted by its supporters as a campaign to defend states rights or white supremacy or Southern honor. Nobody in the South called for the reimposition of slavery after the war ended.[8] Military defeat by the anti-slavery North, not slavery's alleged economic inefficiency, was what doomed the South's slave system.[9]

While it lasted, however, slavery had positive educating effects for the slaves. The critics of Western slavery are seldom aware of the overwhelming impact of demonism on individuals and cultures. The close relationship between sub-Sahara Africa's animism and its perpetual poverty is not discussed in university classrooms. This is one reason why humanist scholars have such difficulty in explaining why state-

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8. Richard E. Berringer, *et al., Why the South Lost the Civil War* (Athens, Georgia: University of Georgia Press, 1986), chaps. 13–16.

9. On the continuing profitability of legalized slavery, so long as the soil of the land owned by the final purchasers of slaves did not become depleted, see the classic essay by Alfred H. Conrad and John R. Meyer, "The Economics of Slavery in the Ante-Bellum South" *Journal of Political Economy*, LXVI (April 1958). It has been reprinted many times, most notably in Conrad and Meyer, *The Economics of Slavery* (Chicago: Aldine, [1964] 2007).

to-state foreign aid programs do not produce long-term economic growth in backward nations. An understanding of the demonism-poverty relationship is fundamental to any valid economic, political, and social analysis of primitive cultures. This relationship is denied by most modern scholars, on those rare occasions when it is even considered. Scholars ignore the obvious: *the slaves imported from Africa were savages*. They were the victims of kidnapping by other savages, who then sold them to Arab slave traders in Eastern Africa or to Western slave traders in Western Africa.

The high bids of English-speaking slave-owners can be said to have rescued some of these savages from rival tribal slavery. It also can be said, however, that the high bids increased the demand for slaves, which in turn led to more slaves being hunted and taken. In any case, the slave-buyers should have known what they were doing: *they were buying slaves from kidnappers*. They simply preferred not to think through the economics of customer authority: customers, not sellers, determine prices. *Final demand creates intermediate demand*. They were buyers of stolen goods. *They were the accomplices of kidnappers*. As such, they became subject to the death penalty. God imposed this penalty on the South during the war, over half a century after slave imports from abroad had ceased. The South's slave-owners had ceased being the accomplices of kidnappers in 1808, but had instead become slave farmers: raising people as if they were cash crops, which they were, economically speaking. There were no laws protecting slave families from break-up through sales. Like the enslavement of the Hebrews by the Egyptians, it took two centuries for this judgment to be imposed on the South, but eventually God's patience ran out.

B. Academic Hostility to the Protestant Work Ethic

African blacks were savages who were being delivered by Southern slavery from earthly bondage to demons. They were being given the opportunity to improve their religious commitment, improve their skills, and ultimately achieve spiritual freedom. Scholars do not recognize that *covenantally faithful people who achieve spiritual freedom by the grace of God in history cannot forever be enslaved*. They lose their status as slaves to sin. This new judicial and ethical status eventually is manifested in history. This is a major theme of the Book of Exodus. *Spiritual freedom under Jesus Christ eventually produces political and economic liberty, though seldom in a single generation*. Conversely, spiritual bondage under Satan eventually produces political and economic

bondage, though seldom in a single generation. *History is not covenantally neutral*. There is ethical cause-and-effect in mankind's institutional history, a covenantal fact denied vehemently by humanists and pietists alike. It is this denial which is the foundation of the operating alliance between humanists and pietists,[10] the defenders of the power religion and the defenders of the escape religion.[11]

There are five steps in the securing of this institutional liberty. They match the five points in the biblical covenant. The first step is spiritual: faith in Jesus Christ as the sovereign Lord and Savior, the redeemer of men and institutions in history. The second step is the recognition of God's hierarchical covenants: the requirement of faithful labor under guidance from those who possess authority. The third step is covenantal faithfulness to the ethical terms of God's covenant. The fourth step is self-government (self-judgment) with the hope of God's blessings, both in heaven and in history. The fifth step is confidence concerning the long-run earthly effects of one's efforts. This confidence leads to a more efficient management of time and capital. In short, for any people to become liberated, they must change their perception of God, man, law, judgment, and time. They must then discipline their lives in terms of this covenantal worldview. In short, the way to liberty is by means of the Protestant ethic.

Technically oriented economic historians often not only ignore the capacity for self-transformation that the Protestant work ethic possesses, they openly denied it. One historian of ideas did not ignore it, Daniel Rodgers.[12] He wrote of the fusion of the work ethic and economic growth in pre-industrial America: "By the middle of the nineteenth century, the process had created in the American North an expansive, though still largely pre-industrial, economy and an un-

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10. Gary North, *Political Polytheism: The Myth of Pluralism* (Tyler, Texas: Institute for Christian Economics, 1989), Pt. 2.

11. Part 1, *Representation and Dominion*, Introduction.

12. Daniel T. Rodgers was a student of a powerful triumvirate of American historians: Yale University's David Brion Davis, C. Vann Woodward, and Edmund S. Morgan. Rodgers wrote in his Introduction to his book, *The Work Ethic in Industrial America, 1850–1920* (Chicago: University of Chicago Press, 1978): "This is at bottom a study not of work but of ideas about work. In particular it is a study of those threads of ideas that came together to affirm work as the core of the moral life. By now reiteration of that claim has dulled its audacity. But in the long run of ideas it was a revolutionary notion. In and of itself work involves only an element of burden and, for most people, the goad of necessity. Few cultures have presumed to call it anything more than a poor bargain in an imperfect world. It was the office of ideas to turn the inescapable into an act of virtue, the burdensome into the vital center of living. That presumption—the work ethic—begins in a momentous act of transvaluation" (p. xi).

equaled commitment to the moral primacy of work."[13] But economic historians are usually more skillful technicians than "mere" intellectual historians, so they are more readily cursed with the tendency to believe the myth of value-free economic science.

Two skeptics regarding the moral and economic benefits of slaves' exposure to the Protestant work ethic were economic historians Roger Ransom[14] and Richard Sutch. They reproduced a statement in 1900 by Hollis Burke Frissell, a prominent Southern educator. It is a statement that could hardly be quarreled with, yet they quarreled with it. The first sentence is, admittedly, preposterous: "It is only fair to call attention to the part which the South performed in the education of the barbarous people forced upon her," but the authors ignored it. Why preposterous? Because the slaves were not educated by "the South," meaning the vast majority of southerners who were not slave-owners. It is misleading to equate "the South" with the slave system. To some extent these free citizens had the slave system forced on them, or at least "sold" to them by the aristocrats who had always dominated the South. Furthermore, those who did the educating of slaves, prior to 1865, did not have the slaves forced on them; they paid for them, and paid a lot. But the authors did not criticize these words. Instead, they criticized what followed.

> The Southern plantation was really a great trade school where thousands received instruction in mechanic arts, in agriculture, in cooking, sewing, and other domestic occupations.... The training which the black had under slavery was far more valuable as a preparation for civilized life, than the freedom from training and service enjoyed by the Indian on the Western reservations. For while slavery taught the colored man to work, the reservation pauperized the Indian with free rations; while slavery brought the black into the closest relations with the white race and its way of life, the reservation shut the Indian away from his white brothers and gave him little knowledge of their civilization, language or religion.[15]

The critics' comments reveal a great deal about the attitude of modern scholars towards the Protestant work ethic. "Frissell's suggestion that slavery imbued the slave with a work ethic indispensable to success as a free laborer has recently reappeared in the work of Robert Fogel and Stanley Engerman. These authors insist that the

13. *Ibid.*, p. xii.

14. One of my graduate school professors of economic history—day in and day out, the best lecturer I ever had in school, and I suffered through a lot of school.

15. Cited by Roger L. Ransom and Richard Sutch, *One Kind of Freedom: The economic consequences of emancipation* (New York: Cambridge University Press, 1977), p. 20.

American slave internalized the 'Protestant work ethic.' Slaves were 'diligent,' 'responsible,' and 'hardworking,' 'virtues' they presumably carried with them into freedom. Upon closer examination, however, Fogel and Engerman's argument has been shown to amount to nothing more than a curious interpretation of the well-known fact that slaves were worked hard."[16] We are once again face to face with reductionism: *nothing more than*. There is always more than. Lots more.

Even if this were true—nothing more than the fact that "slaves were worked hard"—it would be enough. Learning the rigors of disciplined labor is no minor achievement.[17] Being in a culture that expected people to work six days a week, with few vacations and little idleness, provided a competitive model that had its effects on the post-Civil War black freedmen. It is economic reductionism that leads otherwise sensible and painstaking scholars to write that "freedmen worked hard, not because they had actually been imbued with the Protestant work ethic as slaves, but because of the powerful influence of self-interest. The freedmen were the beneficiaries of emancipation, not of slavery."[18]

They forgot that emancipation from demonism is the first step toward long-term economic success. The slaves went through two stages of social emancipation: first, when the original Africans were transported by force to the insufficiently Christian South; second, when their heirs were emancipated from their insufficiently ethical masters. Although the original acts of kidnapping were immoral, their long-term results were to the benefit of those victimized Africans who survived the Atlantic passage and the early years of their enslavement.[19] The critics also forget that what men regard as eco-

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16. *Idem*. The authors referred in a footnote to another essay co-authored by Sutch, an essay whose title tells all: "Sambo Makes Good, or Were Slaves Imbued with the Protestant Work Ethic?" in Paul A. David, *et. al. Reckoning With Slavery: A critical Study in the Quantitative History of American Negro Slavery* (New York: Oxford University Press, 1976).

17. The restructuring of the outlook and personal habits of self-reliance of factory workers was necessary to the coming of the Industrial Revolution in Britain. It took a generation for managers and churchmen to accomplish even a rudimentary shift in the habits of the laboring classes. Sidney Pollard, *The Genesis of Modern Management: A Study of the Industrial Revolution in Great Britain* (Cambridge, Massachusetts: Harvard University Press, 1965), ch. 5: "The Adaptation of the Labor Force."

18. Ransom and Sutch, *One Kind of Freedom*, p. 22.

19. It would be preposterous to deny the benefits of Solomon's wisdom merely because he was the product of a marital union originally based on adultery and murder. The undeniable evil of the latter does not negate the equally undeniable benefits of the former.

nomic self-interest varies widely across the globe, culture to culture. Men respond to incentives and opportunities (problems) in different ways. To imagine that the freedmen of 1865–80 responded to their economic environment in approximately the same way that their savage, demon-worshipping, shaman-manipulated forebears would have responded is not only naive, it is positively denigrating to the economic and spiritual wisdom of the freedmen.[20] More to the point, it is all too favorable to their ancestors, not to mention the pagan gods that they worshipped.

Bondage to sin produces bondage in other areas of life, both personal and cultural. Neither judicial emancipation nor slavery is in itself a solution to the bondage of sin. Slavery in tribal Africa would not have solved the black African's spiritual poverty, but slavery in a spiritually compromised Christian culture eventually led to his hoped-for emancipation. Hard work as slaves within the cultural framework of a generally free and generally Christian society was a better training ground for a slave's eventual emancipation than hard work as a slave within some shaman-terrorized tribe.

Freedom begins with internal regeneration, and then it steadily works its effects outward. If spiritual freedom is not allowed by civil rulers to work its way toward political and economic freedom, then God at last breaks the chains of bondage that restrain the covenantal blessings of freedom. This is the message of the Book of Exodus. Antinomian Christians do not believe this, and humanistic scholars do not admit this, but God says that this is the way He runs His world.

C. Economic Self-Interest

A slave is not usually an efficient worker. At times, he must be forced to work. As with draftees, or even volunteers in military service, fear motivates slaves. Yet it is also true that a military unit that is run exclusively by fear is not likely to fight as well as units that also combine honor, loyalty, comradeship, a taste for victory, a sense of purpose, and the possibility of personal advancement up through the ranks, not to mention the prospect of an honorable discharge. An army of perpetual recruits, of perpetual boot camps, is not going to win many battles. We are back to reductionism: the idea that people respond to

20. I have no doubt that the proportional representation of saints in heaven is much higher for nineteenth-century American slaves than it is for twentieth-century economists. The bulk of the economists will be spending eternity in the same environment as the Shamans who stayed behind in Africa in the eighteenth century.

nothing more than fear. Societies that are based on the assumption of any kind of reductionism do not survive. Man and society are more than any single characteristic.

Fogel and Engerman, whose evaluation was so despised by Ransom and Sutch, concluded the obvious, something that any sensible observer might have known before the two began their detailed study of slavery—a study that received a firestorm of criticism from the academic and literary world. They wrote: "While whipping was an integral part of the system of punishment and rewards, it was not the totality of the system. What planters wanted was not sullen and discontented slaves who did just enough to keep from getting whipped. They wanted devoted, hard-working, responsible slaves who identified their fortunes with the fortunes of their masters. Planters sought to imbue slaves with a 'Protestant' work ethic and to transform that ethic from a state of mind into a high level of production."[21]

Slavery was the boot camp that God provided for almost half a million African "draftees"; emancipation gave their heirs a discharge out of "the service." It was the great historic evil of the slave-masters that slaves had been expected to spend their lives as recruits forever—and productive, loyal, hard-working recruits at that. When slaves became Protestants, in faith as well as ethic, the obvious hypocrisy of their masters must have been even more oppressive. Their masters simply did not take seriously biblical law and the Protestant doctrine of the priesthood of all believers. The military defeat of the South, like the defeat of Israel and Judah, should have served as a lesson in Protestant theology, how God uses the "rod" of an invading army—even an army drafted into service by pagan Boston abolitionists[22]—to bring His people to repentance.

The abolition of chattel slavery in the South did not end either racism or the South.[23] It launched a new phase in southern history, one which culminated a century later in the civil rights protests of the early 1960s.[24] That Karl Marx believed that the end of slavery would

21. Robert William Fogel and Stanley L. Engerman, *Time on the Cross: The Economics of American Slavery* (Boston: Little, Brown, 1974), p. 1547.

22. Otto Scott, *The Secret Six: John Brown and the Abolitionism Movement* (New York: Times Books, 1979).

23. C. Vann Woodward, *The Strange Career of Jim Crow* (New York: Oxford University Press, 1957); Woodward, *Origins of the New South, 1877–1913* (Baton Rouge, Louisiana: Louisiana State University Press, 1951).

24. David J. Garrow, *Bearing the Cross: Martin Luther King and the Southern Christian Leadership Conference* (New York: Simon & Schuster, 1986); Taylor Branch, *Parting the Waters: America in the King Years, 1954–53* (New York: Simon & Schuster, 1988).

not only destroy the South but also destroy the United States is just one more piece of evidence that Marx was a third-rate prophet, a level of performance that matched the quality of his economic analysis. In 1847, he wrote:

> Direct slavery is just as much the pivot of bourgeois industry as machinery, credits, etc. Without slavery you have no cotton; without cotton you have no modern industry. It is slavery that gave the colonies their value; it is the colonies that created world trade, and it is world trade that is the pre-condition of large-scale industry. Thus slavery is an economic category of the greatest importance.
>
> Without slavery North America, the most progressive of countries, would be transformed into a patriarchal country. Wipe North America off the map of the world, and you will have anarchy—the complete decay of modern commerce and civilization. Cause slavery to disappear and you will have wiped America off the map of nations.[25]

That man simply did not know what he was talking about, and for over three decades, he never stopped talking.[26]

D. The American South: No Civil Protection

Slavemasters who symbolically violate this principle by inflicting permanent damage on a slave are therefore supposed to be removed from legal authority over the slave. Slavery in the American South violated this principle. Unlimited authority to inflict punishment was given to slave masters by Southern custom. Just as there was no judicially enforced hope of release for the slave, so was there no judicially enforced limit on physical punishment of the slave. The slave system of the South rested on violence. Every slave system does. In fact, both state and family rest on the threat of violence, but not unlimited violence. Violence is always supposed to be judicially restrained. This was not the case with Southern slavery.

In plantation management handbook after handbook, owners were told that the slave had to submit unconditionally. John Stuart Skinner's 1840 essay in the *American Farmer* was representative of the

25. Karl Marx, *The Poverty of Philosophy* (Moscow: Foreign Languages Publishing House [1847]), p. 107. In 1885, Engels added an unconvincing footnote: "This was perfectly correct for the year 1847." Then what are we to make of Marx's next statement? "Thus slavery, because it is an economic category, has always existed among institutions and people." This was over a decade after the abolition of slavery in the British colonies. The man was willfully blind. All that education—so little wisdom or even common sense.

26. Gary North, *Marx's Religion of Revolution: Regeneration Through Chaos* (Tyler, Texas: Institute for Christian Economics, [1968] 1988).

mentality of the Southern slave-owner: "Absolute, unqualified authority is asserted and exercised on the part of the master."[27] His focus was on the absoluteness of the relationship. "Whenever the authority of the master becomes qualified—whenever his dominion is relaxed, and the submission of the slave ceases to be absolute, the relation between the two loses its homogeneous [sic] distinctness. The one is no longer master, the other no longer slave, in the sense and degree of absoluteness which produces uniformity of action and feeling between them."[28]

There is no absolute human authority present in man's institutions. Men are not God. Only God establishes absolute relations with others. Only He possesses absolute authority. Thus, the judicial mark of the inherent perversity of Southern slavery was this assertion of absolute judicial authority of master over slave. The Southern slave-owner was allowed to impose any sanctions he chose for whatever reason he deemed significant. Whatever civil laws may have been on the statute books regarding limits on a master's punishment of slaves, they were seldom enforced, just as the dueling laws in the South were seldom enforced. Social custom sometimes differed from judicial forms, and social custom was the operational law of the region.

E. The Whip

Deuteronomy 25:3 specifies 40 lashes ("stripes") as the maximum allowed. To beat a person with more than 40 lashes would make the person seem "vile," in the language of the King James. The New American Standard translates the word as "degraded."

In other words, it would make him seem less than human, meaning someone not protected by law in spite of his imaging of God. The Massachusetts Body of Liberties (1641) recognized the degrading aspect of whipping, and specifically protected gentlemen from this form of punishment. "No man shall be beaten with above forty stripes, nor shall any true gentleman nor any man equal to a gentleman be punished with whipping, unless his crime be very shameful and his course of life vicious and profligate."[29] This fastidiousness about whipping gentlemen violated the second listed liberty: equal-

27. John S. Skinner, "Morality among Slaves in Mississippi," *American Farmer*, 3rd ser. (1840), cited in Dickson D. Bruce, Jr., *Violence and Culture in the Antebellum South* (Austin: University of Texas Press, 1979), p. 116.

28. *Ibid.*, p. 117.

29. Massachusetts Body of Liberties (1641), sect. 43.

ity before the law (the rule of Exodus 12:49). "Every person within this jurisdiction, whether inhabitant or foreigner, shall enjoy the same justice that is general for the plantation, which we constitute and execute toward another without partiality or delay. . . ."[30] Ex-slave Henry Bibb expressed his position well: "I was brought up in the Counties of Shelby, Henry, Oldham, and Trimble. Or, more correctly speaking, I was flogged up; for where I should have been receiving moral, mental, and religious instruction, I received stripes without number, the object of which was to degrade and keep me in subordination."[31] Bibb's eloquence seems to have been influenced at this point by the very terminology of Deuteronomy 25:3: "stripes without number," "to degrade me."

It was considered a mark of personal weakness for a Southern slave-owner to rely too heavily on the whip. Certainly, he was warned by social custom and written manuals to be fixed, predictable, and self-restrained in his exercise of plantation discipline. A gentleman was expected to be in self-control at all times. Bruce summarized the social standard: "The plantation was supposed to be a system in which places were known and rules observed. Regularity and order were to be its main features. The slave's behavior was to be highly predictable and the master, in turn, was to be predictable in his own actions."[32] This was the ideal. In fact, it was the continual complaint of ex-slaves that their masters had not been predictable in imposing sanctions.[33]

Other sanctions were available besides the whip: the demotion of household slaves to the status of field slaves; the denial of passes to leave the plantation temporarily; confiscation of crops in the slaves' personal gardens; time in the stocks; or even solitary confinement in a plantation jail (some plantations were large enough to have a jail).[34] But, in the last analysis, the whip was the key to slave discipline. It was the emblem of the master's authority.[35] It could be used in an orderly manner: more lashes for more serious infractions. Also, there were several kinds of whips, some more painful than others (e.g., raw-

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30. *Ibid.*, sect. 2.

31. Henry Bibb, *Narrative of the Life and Adventures of an American Slave, Written by Himself* (1849), p. 13.

32. Bruce, *Violence and Culture*, p. 118.

33. *Ibid.*, pp. 138–40.

34. Kenneth M. Stampp, *The Peculiar Institution: Slavery in the Ante-Bellum South* (New York: Vintage, 1956), pp. 172–73.

35. *Ibid.*, p. 174.

hide). But the goal of the plantation ethic was to reduce whipping to a minimum.[36]

F. Limiting Passion

There is no doubt that one of the great concerns of Southern social thought before the Civil War was to place limits on passion. Bruce's book makes this clear. Southerners feared disorder. They wanted limits—judicial, customary, and institutional—placed on men's outward acts of violence. This was one reason why the gentleman class placed such great stress on personal manners. They feared the "natural man," a man of passion and violence. They identified him by his tendency to violence. But when it came to slavery, they defied the fundamental biblical principle of social order: *self-government under Bible-revealed law*. They refused to establish a judicial hierarchy, an appeals court that would bring every person under the rule of law, including slave and master. They made the tight little "family" of the plantation into a sovereign judicial entity. The "children"—slaves—were to remain in the status of perpetual children. Their "father"—the master—would retain perpetual and judicially unlimited authority over them. This was a denial of the very foundation of liberty under God, a fact recognized by Jefferson, Madison, and many other Southern spokesmen, but they could not bring themselves to abandon the institution that denied their first principle of government: self-government under law.[37]

The defenders of Southern slavery could always insist that brutality on the part of masters was not the norm but rather an exception. This was Southern Presbyterian theologian Robert L. Dabney's argument. "Now, while we freely admit that there were in the South, instances of criminal barbarity in corporal punishments, they were very infrequent, and were sternly reprobated by publick opinion."[38] Dabney was using rhetoric to make his point. There were no acts of criminal barbarity by slave-masters in the South because there were no criminal sanctions against such acts in the South's judicial code. Such acts could not be criminal acts, except in terms of a higher civil law than the South's. Dabney was using the word "criminal" in a general moral sense, i.e., criminal in the eyes of God and men, meaning

36. *Ibid*., pp. 177–79.

37. Winthrop D. Jordan, *White Over Black: American Attitudes Toward the Negro, 1550–1812* (Chapel Hill: University of North Carolina Press, 1968), ch. 12.

38. Robert L. Dabney, *A Defense of Virginia [And Through Her, of the South]* (New York: Negro University Press, [1867] 1969), p. 221.

"socially unacceptable." In any case, how could he know how frequent such acts of "criminal barbarity" were? Intuition? There were no published records for Yankees and other "outside agitators" to appeal to. The system's defenders expected slavery's critics simply to accept their word on the matter. How sternly or frequently public opinion "reprobated" floggers was another question that could not easily be settled by an appeal to reliable public records. What is not open to question is the nature of the sanctions of the South's judicial system against the physical mistreatment of slaves: there were none.

G. Formal Sanctions and Deviance

The same kind of defense could be made regarding the splitting up of slave families: an occasional event. Dabney made it, too. Again, he appealed to the integrity of the court of public opinion: ". . . when the separation was not justified by the crimes of the parties, it met the steady and increasing reprobation of publick opinion." The weakness of this defense is that it fails to acknowledge the heart of the matter, namely, that such supposed deviations on the part of slave-owners were legal. There were no judicially enforceable sanctions against such supposedly deviant behavior.[39] Thus, the behavior was not in fact deviant by Southern standards, but at most merely exceptional. *Without judicial sanctions, a society has no formal way of identifying deviant behavior*. There is always a court of public opinion, and its acceptable jurisdiction is more broad than that of civil courts, but if this court is not supported by judicial sanctions, then it is an informal court. The slaves would have found it difficult to make accurate predictions about the degree of safety such informal sanctions could provide. Without a formal court of appeal, the degree of safety would be far more indeterminate.

Deviant behavior requires sanctions to identify it. Sociologist Kai Erikson, in his study of law enforcement in Puritan Massachusetts, offered this useful definition of deviance: the term "refers to conduct which the people of a group consider so dangerous or embarrassing or irritating that they bring special sanctions to bear against the persons who exhibit it."[40] "The deviant is a person whose activities have

39. Legislation in the American South imposed no penalties on slave owners who physically injured their slaves. Arnold A. Sio, "Interpretations of Slavery," *Comparative Studies in Society and History*, VII (April 1965); reprinted in Allen Weinstein and Frank Otto Gatell (eds.), *American Negro Slavery: A Modern Reader* (New York: Oxford University Press, 1968), pp. 316–17.

40. Kai T. Erikson, *Wayward Puritans: A Study in the Sociology of Deviance* (New York: Wiley, 1966), p. 6.

moved outside the margins of the group, and when the community calls him to account for that vagrancy it is making a statement about how much variability and diversity can be tolerated within the group before it loses its distinctive shape, its unique identity."[41] Those who defended slavery could and did appeal to the supposedly deviant character of its evils and the common character of its benefits. But the key element in defining deviance is establishing the nature of the sanctions against it. It is not the task of biblical civil government to make men perform moral tasks; its job is to restrict them from performing biblically immoral acts. The benefits of slavery should not be the civil government's legitimate concern; reducing the public evils associated with it is its legitimate concern.

Massachusetts' legislation during the first full year of the colony's existence (1630) repeated the biblical standard, although with two modifications: "If any man smite out the eye or tooth of his man-servant or maid-servant, or otherwise maim or much disfigure them, unless it be by mere casualty, he shall let them go free from his service and shall allow such further recompense as the court shall adjudge him."[42] If the injury was clearly an accident, the servant stayed; this provided an escape clause for the owner that the Bible does not mention. On the other hand, if it was deliberate, the servant not only went free but might also receive additional compensation. This went beyond the biblical penalty. The Massachusetts Puritans, at least with respect to their public law code, were concerned about violating the spirit of the law of slave injuries. They understood this law as prohibiting deliberate injuries by the master, so they relaxed the automatic release provision of the law, yet they also tried to honor another important principle of biblical law, economic restitution. They unquestionably placed owners under the threat of civil sanctions.

It was the absence of judicial sanctions against these evils that made the character of Southern slavery judicially perverse.

The South did not impose formal, public sanctions against those slave-owners who clearly mistreated their slaves. The Bible is clear about the proper response of society to such deviant behavior: for the slave so mistreated, the court's granting him his freedom is the appropriate sanction against the owner.

Because the South's courts refused to impose this biblical sanction

41. *Ibid.*, p. 11.

42. *Foundations of Colonial America: A Documentary History*, ed. W. Keith Kavenaugh, 3 vols. (New York: Chelsea House, 1973), I, p. 405.

on deviant slave-owners within their jurisdiction, God then imposed his sanctions on the courts. The slaves were freed by the courts of the South's conquerors. When self-government fails to produce proper results, external sanctions are appropriate. God brought the South under a kind of temporary servitude that lasted a little over a decade militarily, 1865–77, over half a century politically,[43] and just over a century economically, socially, and culturally.

Conclusion

When Martin Luther King, Jr., ended his famous "I Have a Dream" speech at the 1963 "March on Washington" with the words, taken from an old hymn, "Free at last! Free at last! Thank God Almighty, we are free at last!"[44] he spoke prophetically for the American South, which during the next decade abandoned that distinctive degree of racism, intellectual and judicial, that had kept it separated from the rest of the nation for two centuries. Well could he announce in 1968 in Memphis, Tennessee, in a public speech the night before his assassination: "And He's allowed me to go up to the promised land. I may not get there with you. But I want you to know tonight, that we, as a people will get to the promised land."[4545]

The welfare state policies that President Lyndon Johnson imposed on the American political order then undermined the African-American family, which was already disintegrating because of the welfare state system created by President Franklin Roosevelt three decades earlier. Racism's most overt and coercive practices died, 1955–70. The price that the blacks' social order suffered at the hands of the welfare state was a heavy price to pay within the community. The state substituted another kind of dependence for the older, private version. The whites pay a small percentage of their income to support this system. The great losers are the blacks. The slave system did not allow blacks to marry. The welfare state pays them not to marry. The slave system's unofficial family was more stable than the present non-family.

Sinners have a propensity to establish slave systems. Their forms vary, but the results are similar: dependence, resentment, and failure.

43. Woodward, *Origins of the New South*.
44. Garrow, *Bearing the Cross*, p. 284.
45. *Ibid*., p. 621.

APPENDIX L

MAIMONIDES' *CODE*: IS IT BIBLICAL?

> *A heathen who busies himself with the study of the Law deserves death. He should occupy himself with the (study) of the seven commandments only. So too, a heathen who keeps a day of rest, even if it be on a weekday, if he has set it apart as his Sabbath, is deserving of death. It is needless to state that he merits death if he makes a new festival for himself. The general principle is: none is permitted to introduce innovations into religion or devise new commandments. The heathen has the choice between becoming a true proselyte by accepting all the commandments, and adhering to his own religion, neither adding to it nor subtracting anything from it. If therefore he occupies himself with the study of the Law, or observes a day of rest, or makes any innovation, he is flogged, or otherwise punished and advised that he is deserving of death, but he is not put to death.*
>
> MOSES MAIMONIDES (1180)[1]

The typical non-Jew would imagine that Jews throughout history would have rejoiced whenever gentiles[2] read the Old Testament in search of God's permanent moral and civil standards of righteous-

1. Moses Maimonides, *The Book of Judges*, Book 14 of *The Code of Maimonides*, 14 vols. (New Haven, Connecticut: Yale University Press, 1949), "Laws Concerning Kings and Wars," V:X:9, p. 237.

2. I do not capitalize "gentile," although the King James translators did, and it is still common for writers to do so. I do not view the gentiles as a separate people in the ethnic or national way that Americans, Mexicans, Chinese, and Jews are. To capitalize the word would imply that gentiles are a separate people, meaning a separate people as contrasted to Jews, who alone are "not gentiles." Such ethnic separation no longer exists in principle: "That at that time ye were without Christ, being aliens from the commonwealth of Israel, and strangers from the covenants of promise, having no hope, and without God in the world: But now in Christ Jesus ye who sometimes were far off are made nigh by the blood of Christ. For he is our peace, who hath made both one, and hath broken down the middle wall of partition between us" (Eph. 2:12–13). Jews equate gentiles with heathen, yet they do not capitalize "heathen," for they correctly understand "heathenism" as a spiritual condition rather than an ethnic or national condition. I use "gentiles" in the sense of "not Jews," but not in the sense of a separate ethnic or national group.

ness. After all, this would tend to bridge the cultural and judicial gap between Jews and non-Jews. This, however, was precisely the problem in the minds of the rabbis for at least 1,700 years. The rabbis did not want this gap bridged; at most, they wanted external peace and quiet for Jews, meaning they wanted social order in the midst of gentile culture. Sufficient social order within the gentile world is supposedly achieved through their adherence to the seven commandments specifically given to the heathen, meaning gentiles. Six of these laws were first given to Adam, according to Jewish law: the prohibitions against idolatry, blasphemy, murder, adultery, and robbery, plus the command to establish courts of justice. A seventh law was also supposedly given to Noah: the prohibition against eating the limb of a living animal.[3] Beyond this minimal list of seven laws, the gentiles—"Noahides" or "Noahites," the descendants of Noah[4]—are not supposed to go in their inquiry into the ethical requirements of Old Testament law, which belongs exclusively to the Jews.

In making this assertion, Maimonides was faithfully following the teaching of the Talmud. He was taking Rabbi Johanan at his word: "R. [Rabbi—G.N.][5] Johanan said: A heathen who studies the Torah deserves death, for it is written, *Moses commanded* us *a law for an inheritance*; it is *our* inheritance, not theirs."[6] Resh Lakish (third century, A.D.) said that a gentile who observes the Sabbath deserves death.[7] Why should God have forbidden the gentiles to study His law? The Talmud offers this answer:

> R. Abbahu thereupon said: The Writ says, *He stood and measured the earth; he beheld and drove asunder the nations*, [which may be taken to imply that] God beheld the seven commandments which were accepted by all the descendants of Noah, but since they did not observe them, He rose up and declared them to be outside the protection of the civil law of Israel [with reference to damage done to cattle by cattle].[8]

Lest this position seem utterly outrageous to Christian readers, I need to point out that a similar view of the sufficiency of Noah's covenant for non-Israelite civil law was offered by Calvinist theologian John Murray and also by neo-dispensational theologians H. Wayne

3. Maimonides, *Judges*, "Laws Concerning Kings and Wars," V:IX:1, pp. 230–31.
4. *Ibid.*, V:IX:2, p. 231.
5. When you see brackets inside a direct quotation from the Talmud, they appeared in the Soncino Press edition. I will note any brackets of my own with my initials.
6. Babylonian Talmud, *Sanhedrin* 59a. I am using the Soncino Press edition.
7. *Sanhedrin* 59b.
8. *Baba Kamma* 38a. Bracketed comments are by the editor.

House and Thomas D. Ice. In fact, all three of them concluded that there is only one biblically required sanction in Noah's covenant, capital punishment for murder. This, they believed, is the only biblical law that God has required all men to obey throughout mankind's post-flood history.[9] The Talmud at least adds an additional six laws that God specifically established through Adam and Noah that gentiles are supposed to honor throughout history.

A. How Little Most People Know About Judaism

Maimonides' opinion regarding the immorality of non-Jews who read the Old Testament would probably come as a shock to most Christians, assuming they had ever heard of Maimonides and his *Mishneh Torah*. It might even come as a shock to most contemporary Jews. The average Bible-believing Christian in the United States knows very little about post-New Testament Judaism. He may be vaguely aware that American Judaism is divided into three theological wings: Reform (liberal), Conservative, and Orthodox. He may also be aware that European Judaism has two great ethnic branches: the Sephardim[10] (those whose ancestors once lived in Spain, Portugal, or the Eastern Mediterranean) and the Ashkenazic Jews[11] (those who came west from Russia and Poland), who were the Yiddish-speaking Jews in the late 1800s and early 1900s, prior to their linguistic assimilation into American culture. But as to how these Jewish groups overlap,[12] or which group dominates Judaism either in the U.S. or in the state of Israel today,[13] the average Christian has no idea. Few Christians have heard that there is a third branch, Oriental or Yemenite Judaism

9. John Murray, *Principles of Conduct: Aspects of Biblical Ethics* (Grand Rapids, Michigan: Eerdmans, 1957), pp. 118–19; House and Ice, *Dominion Theology: Curse or Blessing?* (Portland, Oregon: Multnomah, 1988), p. 130.

10. Heinrich Graetz, *History of the Jews*, 6 vols. (Philadelphia: Jewish Publication Society of America, [1893] 1945), IV, chaps. 10–13. On the influence of the Sephardic Jews in the U.S., see Stephen Birmingham, *The Grandees: America's Sephardic Elite* (New York: Harper & Row, 1971).

11. Graetz, *History*, IV, ch. 14; V, chaps. 6, 18; V, ch. 1. See also Bernard D. Weinryb, *The Jews of Poland: A Social and Economic History of the Jewish Community in Poland from 1100 to 1880* (Philadelphia: Jewish Publication Society, 1972). On their influence in the U.S., see Stephen Birmingham, "Our Crowd": *The Great Jewish Families of New York* (New York: Harper & Row, 1967); Irving Howe, *World of Our Fathers* (New York: Simon & Schuster, [1976] 1983); Irving Howe and Kenneth Libo, *How We Lived: A Documentary History of Immigrant Jews in America, 1880–1930* (New York: Richard Marek, 1979).

12. Thomas Sowell, *Ethnic America: A History* (New York: Basic Books, 1981), ch. 4: "The Jews."

13. I refer to the "state of Israel" rather than "Israel" out of respect for the terminology of Orthodox Jews, who sharply distinguish the two.

(North African), members of which have long complained that they are discriminated against politically in the state of Israel.

Christians are unaware that the medieval Jewish body of literature known as the Kabbalah ("tradition") is not only mystical but closely tied to numerology and occultism.[14] They do not know that the mystical-magical tradition of the Kabbalah had its roots in the Talmud.[15] They have never read anything about the history of Zionism, either pro[16] or con.[17]

To the extent that the Bible-believing Christian thinks about Reform Jews generally, he assumes that they are something like Unitarians: politically liberal, skeptical about the Bible, and essentially humanistic. (Orthodox Jews also view Reform Jews in much the same way.) Christians, however, tend to think of almost all Jews in this way, which turns out to be a statistically correct political assumption; American Jews are consistently liberal in their voting behavior.[18] Con-

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14. "Kabalah," in Lewis Spence (ed.), *An Encyclopaedia of Occultism* (New Hyde Park, New York: University Books, [1920] 1960). An example of popular (though underground) magical literature based on the Kabbalah, which has been reprinted generation after generation, is *The Sixth and Seventh Books of Moses*. See also Arthur Edward Waite, *The Holy Kabbalah: A Study of the Secret Tradition of Israel* (New Hyde Park, New York: University Books, 1960 reprint); Denis Saurat, *Literature and Occult Traditio*n, trans. Dorothy Bolton (Port Washington, New York: Kennikat, [1930] 1966), Pt. III, ch. 2. The pioneering modern Jewish studies of the Kabbalah are by Gershom G. Scholem: *Major Trends in Jewish Mysticism,* 3rd ed (New York: Schocken, 1961) and *On the Kabbalah and Its Symbolism* (New York: Schocken, [1960] 1965). The primary source of Kabbalah is *The Zohar*, 5 vols. (London: Soncino Press, 1934). On the influence of the Kabbalah on the gentile world, see Frances A. Yates, *The Occult Philosophy in the Elizabethan Age* (London: ARK, [1979] 1983) and A. E. Waite, *The Brotherhood of the Rosy Cross* (New Hyde Park, New York: University Books, 1961 reprint).

15. Gershom G. Scholem, *Jewish Gnosticism, Merkabah Mysticism, and Talmudic Tradition* 2nd ed. (New York: Bloch, 1965).

16. Walter Laqueur, *A History of Zionism* (New York: Holt, Rinehart & Winston, 1972); Ronald Sanders, *The High Walls of Jerusalem: A History of the Balfour Declaration and the Birth of British Mandate for Palestine* (New York: Holt, Rinehart & Winston, 1983).

17. Gary V. Smith (ed.), *Zionism: The Dream and the Reality, A Jewish Critique* (New York: Barnes & Noble, 1974); Rabbi Elmer Berger, *The Jewish Dilemma: The Case Against Zionist Nationalism* (New York: Devin-Adair, 1945). The major published English-speaking critic of Zionism is Alfred M. Lilienthal: *What Price Israel?* (Chicago: Regnery, 1953); *There Goes the Middle East* (New York: Devin-Adair, 1957); *The Zionist Connection: What Price Peace?* (New York: Dodd, Mead, 1978).

18. ". . . Jews in this country have the economic status of white Anglo-Saxon Episcopalians but vote more like low-income Hispanics." Milton Himmelfarb, cited by Irving Kristol, "Liberalism & American Jews," *Commentary* (Oct. 1988), p. 19; cf. Peter Steinfels, "American Jews Stand Firmly to the Left," *New York Times* (Jan. 8, 1989). Steinfels reported that polls revealed that four times as many Jews belong to the Democratic Party as belong to the Republican Party, compared to about equal numbers of other white voting groups. Almost two to one, Jews believe in the legal right to abortion.

servative Jews are seen by Christians as being somewhere in between Reform and Orthodox: they do not eat pork, but they wear normal clothes; other than this, Christians know little about them.

The Orthodox Jew, in contrast, is assumed by the Bible-believing Christian to be rather like the Christian: he has minority status within the larger Jewish community, he tends to be more conservative politically, pro-family in outlook, and probably anti-abortion. He is in conflict with the Reform Jews, just as the Bible-believing Christian is at war with the liberal defenders of biblical higher criticism. Thus, the Orthodox Jew is assumed to be a kind of Old Testament Christian who wears black clothing and a beard—a quaint, Amish-like figure[19]—and who avoids pork. This perception is incorrect. The Orthodox Jew is in fact a self-conscious, self-professed spiritual heir of the Pharisees. His book is the Talmud, the written version of Judaism's oral law, far more than it is the Old Testament.

1. The "Star of David"

Very few people know much about the history of Judaism, including those who identify themselves as Jews. This may seem like an outrageous statement. You can test its accuracy by asking the average gentile or average Jew what the most important symbol of modern Judaism is. He probably will say either the scroll of the Torah or "the star of David," also known as the Mogen David or Magen David. After all, it appears on the state of Israel's national flag. Ask him where the latter symbol originated, and you will get a blank stare. He has no idea.

The fact is, the so-called star of David is a universal pagan symbol, long pre-dating Judaism. It was adopted by Zionists in the late nineteenth century. Before then, it was used as a decoration by Jews, Muslims, and Christians. It was long called the Seal of Solomon. How many Jews, let alone Christians, have ever been informed of the following information, presented by Jewish scholar and art historian Joseph Gutmann?

> The Magen David is a hexagram or six-pointed star. It appears as early as the Bronze Age and is at home in cultures and civilizations widely removed in time and geographic area. Mesopotamia, India, Greece, and Etruria are among the places where it has been found—but without any discoverable meaning. Possibly it was an ornament or had magical connotations. Only occasionally before the 1890s is it found in a Jewish context;

19. This link is featured in a scene in a movie about a mid-nineteenth century Jew, *The Frisco Kid*, and in a scene in a movie about a modern Amish family, *Witness*.

> the oldest Jewish example is from seventh-century B.C.E. [B.C.] Sidon, a seal belonging to one Joshua ben Asayahu. In the synagogue at Capernaum, Galilee, a synagogue which may date from the fourth century C.E. [A.D.], the Magen David is found alongside the pentagram and the swastika, but there is no reason to assume that the Magen David or the other signs on the synagogue stone frieze served any but decorative purposes.
>
> In the Middle Ages, the Magen David appears quite frequently in the decorations of European and Islamic Hebrew manuscripts and even on some synagogues, but appears to have no distinct Jewish symbolic connotation; it is also found on the seals of the Christian kings of Navarre, on mediaeval church objects, and on cathedrals. As a matter of fact, what is today called Magen David was generally known as the Seal of Solomon in the Middle Ages, especially in Jewish, Christian and Islamic magical texts. In the medieval Islamic world the hexagram was popular and was widely used. Generally known, especially in Arab sources, as the Seal of Solomon, it gradually became linked with a magic ring or seal believed to give King Solomon control over demons. An early Jewish source in the Babylonian Talmud (*Gittin* 68a-b) already mentions it.
>
> The hexagram and pentagram, it should be pointed out, both carried the designation "Seal of Solomon" and were employed in both Christianity and Islam as symbols with magical or amuletic power. On the parchment of many medieval *mezuzot* (capsules placed on the doorposts of every Jewish home) the hexagram and pentagram (Seal of Solomon) were written out and also served as a talisman or had magical powers to ward off evil spirits.[20]

The point is, few Jews or gentiles are aware of any of this. That the flag of the state of Israel bears an ancient pagan symbol is not a well-known fact either to those who respect it or who resent it. In short, the vast majority of Christians and many Jews know very little about the history of Judaism. Jews and Christians are aware that their respective religious practices are quite different, yet not many of them know why, and to what extent, their religions differ. People speak of "the Judeo-Christian tradition," yet they are not quite sure what this tradition is, or if it even exists.[21]

B. Rival Religions

I agree with the incomparably prolific (1,000 books) Conservative Jew, Jacob Neusner (NEWSner), whose studies on Jewish law are

20. Joseph Gutmann, *The Jewish Sanctuary* (Leiden: E. J. Brill, 1983), p. 21. This study is Section XXIII: Judaism, of the Iconography of Religions, produced by the Institute of Religious Iconography of the State University Gronigen, Netherlands.

21. Arthur A. Cohen, *The Myth of the Judeo-Christian Tradition* (New York: Schocken, 1971). J. H. Hexter, *The Judeo-Christian Tradition* (New York: Harper & Row, 1966).

as close to definitive as the writings of any one person can be.[22] He wrote: "Judaism and Christianity are completely different religions, not different versions of one religion (that of the 'Old Testament,' or 'the written Torah,' as Jews call it). The two faiths stand for different people talking about different things to different people."[23] He argued that the key differences center on the two rival programs: salvation (Christianity) vs. sanctification (Pharaiseeism). It is therefore also a debate over the issue of eschatology: God's kingdom manifested in world history. Christianity is inherently universalistic; Judaism is inherently particularistic. Neusner wrote:

> Salvation, in the nature of things, concerned the whole of humanity; sanctification, equally characteristic of its category, spoke of a single nation—Israel. To save, the messiah saves Israel amid all nations, because salvation characteristically entails the eschatological dimension and so encompasses all of history. No salvation, after all, can last only for a little while or leave space for time beyond itself. To sanctify, by contrast, the sage sanctifies Israel in particular. Sanctification categorically requires the designation of what is holy against what is not holy. To sanctify is to set apart. No sanctification can encompass everyone or leave no room for someone in particular to be holy. One need not be "holier than thou," but the *holy* requires the contrary category, the *not holy*. So, once more, how can two religious communities understand one another when one raises the issue of the sanctification of Israel, and the other the salvation of the world?[24]

Christianity, by adopting a view of salvation that necessarily encompasses all the nations of the earth, broke forever with rabbinic Judaism. This was the meaning of Jesus' analogy of new wine. "Neither do men put new wine into old bottles: else the bottles break, and the wine runneth out, and the bottles perish: but they put new wine into new bottles, and both are preserved" (Matt. 9:17). Neusner was correct: Christianity is universalistic in scope and vision; Judaism is particularistic.

Neusner also contrasted sanctification with salvation. This is fundamentally incorrect. He missed what should be obvious: *the Bible presents salvation as a process that necessarily involves both progressive personal sanctification and progressive institutional sanctification as history un-*

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22. Jacob Neusner, *History of the Mishna Laws*, 5 parts, 43 volumes (Leiden, Netherlands: E. J. Brill). He has written 950 books.

23. Jacob Neusner, *Jews and Christians: The Myth of a Common Tradition* (London: SCM Press, 1991), p. 1.

24. *Ibid.*, pp. 5–6.

folds.[25] Biblical salvation is a comprehensive process.[26] This is a major aspect of its universalism. Christianity's doctrine of salvation (soteriology) is inescapably tied to its doctrine of progressive sanctification. This was especially true of Anglo-American Protestant missionary activity until the late nineteenth century.[27] Neusner is not alone in this error, however. The institutional-historical aspect of salvation was also generally ignored by most Bible-believing Christian theologians in the twentieth century. They have not recognized the extent to which biblical soteriology, ethics, and eschatology are intertwined. By failing to grasp this fact, both rabbinic Judaism and modern fundamentalism have adopted ghetto mentalities.[28]

If the debate between Jews and Christians with regard to the nature of covenantal society is inherently an ethical debate—ethics' sources and applications in history—then the key book in the history of Judaism is the Talmud. Christians need to be aware of it, but very few are. It is not sufficient to go to the Old Testament to learn about Judaism. Judaism and Christianity both claim to go to the Old Testament; so does Islam. These three religions—not to mention their factions, sects, splinter groups, and offshoots—offer radically different interpretations of the Old Testament. We must therefore look briefly at the Talmud in order to get the sense of the theological and historical differences separating Orthodox Judaism and biblical Christianity.

C. The Talmud: A Closed Book, Even When Open[29]

Most Christians have never heard of the Talmud. I have never met a Christian who claims to have read all of it, all 34 fat volumes. The Christian who may have heard of it but who has never read in it prob-

25. Gary North, *Dominion and Common Grace: The Biblical Basis of Progress* (Tyler, Texas: Institute for Christian Economics, 1987).

26. Gary North, *Is the World Running Down? Crisis in the Christian Worldview* (Tyler, Texas: Institute for Christian Economics, 1988), Appendix C: "Comprehensive Redemption: A Theology for Social Action."

27. J. A. De Jong, *As the Waters Cover the Sea: Millennial Expectations in the rise of Anglo-American missions, 1640–1810* (Kampen, Netherlands: J. H. Kok, 1970).

28. Modern intellectual evangelicalism has generally adopted the prevailing humanist worldview. It has adopted a "we, too" view of social theory. See James Davison Hunter, *Evangelicalism: The Coming Generation* (Chicago: University of Chicago Press, 1987).

29. Israel Shenker refered to David Weiss' leisurely reading of it on vacations, without Weiss' normal line-by-line analysis, "as though it were an open book." Shenker, "A Life in the Talmud," *New York Times Magazine* (Sept. 11, 1977). Professor Robert L. Wilken of the University of Virginia called the Soncino edition of the Talmud a closed book: *Insight* (May 16, 1988).

ably believes that it is a large Bible commentary on the Old Testament. I hope to show here that this assumption is incorrect.

The problem Christians face is that there is no work of serious yet forthright scholarship on the Talmud that is written by a Trinitarian, Bible-believing Christian. Alfred Edersheim, the mid-nineteenth-century convert from Judaism who taught at Oxford and who wrote *The Life and Times of Jesus the Messiah* and *Old Testament History*, could have written such a work, but he chose not to, although his *History of the Jewish Nation* does include a 21-page section on Jewish law in the Talmud and Mishnah.[30] Under the section, "Jewish Theology," he admitted: "In attempting to arrange the doctrinal views of the Rabbins, we are bewildered by a mass of erroneous, blasphemous, and even contradictory statements."[31] I would add: *especially* we find contradictory statements, for dialecticism is the reasoning process of the Talmud. Solomon Schechter's restrained comment in 1901 is accurate: "This indifference to logic and insensibility to theological consistency seems to be a vice from which not even the later successors of the Rabbis—the commentators of the Talmud—emancipated themselves entirely."[32] Or more impishly, "Whatever the faults of the Rabbis were, consistency was not one of them."[33] Even today, there are remarkably few serious works on the Talmud in English written by Jews, and none of them that I have read even mentions the disturbing material that I will briefly refer to in this appendix.

1. What Is the Talmud?

The Babylonian Talmud is an immense compilation.[34] It has been well described by Jews as "the sea of the Talmud." (Sargasso Sea is closer to it.) Jews have called it "the Great Labyrinth" and "Sphinx-like,"[35] which is getting even closer, given the occult roots of the lab-

30. Alfred Edersheim, *History of the Jewish Nation After the Destruction of Jerusalem Under Titus* (Grand Rapids, Michigan: Baker Book House, [1856] n.d.), pp. 361–81. Edersheim was ordained at age 21 in the Scottish Presbyterian Church, and was later ordained an Anglican. He wrote this book at age 30.

31. *Ibid.*, p. 424.

32. Solomon Schechter, *Aspects of Rabbinic Theology* (New York: Schocken, [1901] 1961), p. 15.

33. *Ibid.*, p. 46. Schechter was a leader in the Conservative movement of Judaism: Joseph Gaer and Rabbi Alfred Wolf, *Our Jewish Heritage* (Hollywood, California: Wilshire Book Co., 1957), p. 24.

34. The Jerusalem Talmud is much smaller and has never had impact on Judaism comparable to the Babylonian Talmud.

35. Jacob Schachter, "Talmudical Introductions Down to the Time of Chajes," in Z. H. Chajes, *The Student's Guide Through the Talmud* (London: East and West Library,

yrinth and its connection with the Sphinx.[36] R. Travers Herford, the Unitarian master (yet concealer) of the Talmud, described it as "a great wilderness."[37] Few Christians have ever seen a set; almost no one reads it today, Christians or Jews. An unabridged version of the Talmud became available in English only in the early 1950s—about two generations after the vast majority of English-speaking Jews had ceased to pay any attention to it. It is 34 volumes long, plus a large index volume. Prior to the mid-twentieth century, it had been a hidden book to the English-speaking gentile world. As England's chief rabbi, J. H. Hertz mentioned in his Foreword, "All the censored passages reappear in the Text or in the Notes."[38] Earlier editions, most notably Michael Rodkinson's (1903), had been voluntarily censored by their editors.

The Talmud is a compilation of the oral teachings of the rabbis from perhaps 200 years before Christ until the end of the second century, A.D. (Mishnah), plus an additional three hundred years of commentary (Gemara). The total is almost seven (possibly eight) centuries.[39] Those who adhere to the Talmud claim that this oral tradition extends back to Moses. They cite Exodus 24 as proof: "And Moses came and told the people all the words of the LORD, and all the judgments" (3a). Then we read, "And Moses wrote all the words of the LORD" (4a). But he did not write the judgments, they say; instead, the judgments became the oral law, taught from rabbi to rabbi down through the ages. An Orthodox Jewish rabbi believes that he can trace his line of teachers back to Moses.

What eventually became the authoritative version of this oral tradition was compiled by several Jewish authorities, but especially by Rabbi Judah, "the Prince," "the patriarch," HaNasi,[40] or just "Rabbi" (135–210 A.D.). He completed what later became known as the Mishnah sometime around 189.[41] The word "completed" is somewhat misleading. Completed what? Some Jews have insisted that it was not

1952), p. xvi.

36. Appendix C.

37. R. Travers Herford, *Christianity in Talmud and Midrash* (London: Williams and Norgate, 1903), p. 1.

38. Hertz, "Foreword," *Baba Kamma, The Babylonian Talmud* (London: Soncino Press, 1935), p. xxvii.

39. Schachter, "Talmudical Introductions," in Chajes, *Student's Guide Through the Talmud*, p. xvi (footnote).

40. The Nasi or Prince was the head of the Sanhedrin. George Horowitz, *The Spirit of Jewish Law* (New York: Central Book Co., [1953] 1963), p. 628.

41. Graetz, *History of the Jews*, II, p. 460.

written down in his day because it was considered by the Jews as a crime to do so. Wrote the Jewish historian Graetz: "Christendom had taken possession of the Holy Scriptures as its own spiritual property, and considered itself as the chosen part of Israel. According to the views of the times, Judaism was now possessed of no distinguishing feature, except the Oral Law."[42] There is obviously some debate about this, however. Hermann Strack, a highly respected gentile German scholar of the Talmud, wrote: "Just how much of it was written by Rabbi himself is a subject of debate."[43] He used the verb "written," but he is judicious about referring directly to the writing down of the Mishnah, for that would mean coming to a conclusion, and Prof. Strack avoided conclusions like the plague.[44] He said that portions of the Mishnah had been written down both by Rabbi Akiba and his pupil Rabbi Meir in the early second century A.D., but not everything had been written down: "Great stress was laid on memorizing and retaining in memory the enormous material; witness the remark of Dosthai ben Jannai in the name of Meir: 'When a scholar forgets a single word of his Mishna, they account it to him as if he forfeited his life.'"[45] He said that there had been earlier codifications than Akiba's. Graetz did not exaggerate when he wrote that "Concurrently with the Bible, the Mishna was the principal source of intellectual activity and research; it sometimes even succeeded in entirely supplanting the Scripture, and in asserting its claim to sole authority. It was the intellectual bond which held together the scattered members of the Jew-

42. *Ibid.*, II, p. 608.

43. Hermann Strack, *Introduction to the Talmud and Midrash* (New York: Atheneum, [1931] 1983), p. 20. This book was first published in English by the Jewish Publication Society of America.

44. Anyone trying to read Strack's book will find how useless it is as an introduction. Only the most skilled Talmudic scholar could follow its reams of names without dates or summaries of their thought (ch. XIII), bibliography without evaluation (ch. XIV), and its lack of conclusions about anything. Here was a man who compiled a mountain of notes, and in five editions achieved little more than pasting this mass of notes together. There is hardly a glimmer of insight in any of it. This is Germanic scholarship at its worst: massive scholarly paraphernalia, little substance, and no conclusions. He labored mightily all his life, and brought forth a mouse. If you think I am exaggerating, you owe it to yourself to sit down and read it. I warn you: you won't make it through the first four chapters—not if you have any sense. You will never make it past the chapter on the Mishna. I prefer to play the role of the little boy who announced that the emperor had no clothes. Prof. Strack had no ideas. That a man's life could be wasted on such a project as futile as this one is pathetic. Hermann Strack is the one of the few scholars about whose book I can honestly say: "It is less useful than biblical higher criticism."

45. *Ibid.*, p. 22.

ish nation."[46] I can think of another criticism of Judaism even more devastating than Graetz's: the Jews later chose the Talmud over the Mishnah, which at least had been vastly shorter.

2. Pharisees vs. Sadducees

The Pharisees were the Jewish rabbis who embraced the oral tradition as equal to the Old Testament; the Sadducees were priests who accepted the oral law's traditions but rejected the Pharisees' claim that the oral law is equally as binding as Scripture.[47] The Jewish historian and former priest Josephus, who was alive at the fall of Jerusalem in A.D. 70, summarized the differences between the two, and his summary makes it clear why Jesus rejected both groups.

> What I would now explain is this, that the Pharisees have delivered to the people a great many observances by succession from their fathers, which are not written in the law of Moses; and for that reason it is that the Sadducees reject them, and say that we are to esteem those observances to be obligatory which are in the written word, but are not to observe what are derived from the tradition of our forefathers. . . .[48]

> . . . the Pharisees are those who are esteemed most skillful in the exact explication of their laws, and introduce the first sect. They ascribe all to fate [or providence,] and to God, and yet allow, that to act what is right, or the contrary, is principally in the power of men, although fate does co-operate in every action. They say that all souls are incorruptible; but that the souls of good men are only removed into other bodies,—but that the souls of bad men are subject to eternal punishment. But the Sadducees are those who compose the second order, and take away fate entirely, and suppose that God is not concerned in our doing or not doing what is evil; and they say, that to act what is good, or what is evil, is at men's own choice, and that the one or the other belongs so to every one, that they may act as they please. They also take away the belief of the immortal duration of the soul, and the punishments and rewards in Hades.[49]

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46. Graetz, *History*, II, p. 462.

47. Jacob Z. Lauterbach, "The Sadducees and Pharisees" (1913); reprinted in Lauterbach, *Rabbinic Essays* (Cincinnati, Ohio: Hebrew Union College Press, 1951); J. H. Hertz, "Foreword," *The Babylonian Talmud*, Seder Nezikin (London: Soncino Press, 1935), p. xiv. Unitarian scholar R. Travers Herford wrote several sympathetic accounts of the tradition of the Pharisees, most notably *The Pharisees* (London: George Allen & Unwin, 1924); *The Ethics of the Talmud: Sayings of the Fathers* (New York: Schocken, [1945] 1962). The standard Jewish work on the Pharisees is Rabbi Louis Finkelstein's study, *The Pharisees*, 2 vols., 3rd ed. (Philadelphia: Jewish Publication Society of America, 1963).

48. Josephus, *Antiquities of the Jews*, Bk. XIII, Ch. X, Sect. 6. William Whiston translation, 1737.

49. Josephus, *Wars of the Jews*, Bk. II, Ch. VIII, Sect. 14.

The Sadducees' influence faded rapidly after the destruction of the temple in A.D. 70. Herbert Danby, whose English translation of the Mishnah is still considered authoritative by the scholarly world, both Jewish and gentile, commented on the undisputed triumph of the Pharisees after the fall of Jerusalem (which lives on as Orthodox Judaism): "Until the destruction of the Second Temple in A.D. 70 they had counted as one only among the schools of thought which played a part in Jewish national and religious life; after the Destruction they took the position, naturally and almost immediately, of sole and undisputed leaders of such Jewish life as survived. Judaism as it has continued since is, if not their creation, at least a faith and a religious institution largely of their fashioning; and the Mishnah is the authoritative record of their labour. Thus it comes about that while Judaism and Christianity alike venerate the Old Testament as canonical Scripture, the Mishnah marks the passage to Judaism as definitely as the New Testament marks the passage to Christianity." Neusner was correct when he served that "the rabbis of late antiquity rewrote in their own image and likeness the entire Scripture and history of Israel, dropping whole eras as though they had never been, ignoring vast bodies of old Jewish writing, inventing whole new books for the canon of Judaism. . . ."[50]

The supremacy of the Mishnah after A.D. 70 meant the triumph of the Pharisees. Similarly, in the modern era, the waning of the Mishnah in Judaism has meant the waning of the Pharisees' spiritual heirs, Orthodox Jews.

Again, the Mishnah is the written version of the Jews' oral tradition, while the rabbis' comments on it are called Gemara. The Talmud contains both Mishnah and Gemara. The rabbinical comments comprise the bulk of the Talmud. Danby's standard translation of the Mishnah is one long volume. The Soncino Press edition of the Talmud is 34 volumes, plus the index.

3. The Torah

When Jews speak of "Torah,"[51] they do not always mean the Old Testament or even the Pentateuch. Sometimes they mean something much broader. Christians are generally unaware of this broader usage, which leads them to believe that Orthodox Jews are somehow Christians without Christ, or Unitarians who believe in miracles and

50. Neusner, "Two Faiths Talking," *World & I, op. cit.*, p. 690.

51. "Direction, instruction, doctrine, law": *Oxford English Dictionary*.

angels, i.e., people who believe in the Old Testament by itself. They think of Orthodox Jews as undeveloped Christians, theological first cousins who were publicly disinherited in A.D. 70. They have missed the point of Jesus' absolute challenge to the Pharisees.

Orthodox Judaism constitutes a rival religion that developed alongside the early church. The Pharisees insisted that the oral law. Is equal to the written law, as surely as Christians insist that the New Testament is as authoritative as the Old Testament, the Muslims insist that the Koran is as authoritative as the Old Testament, and the Mormons insist that the Book of Mormon is as authoritative as the Old Testament. Each group really means that its unique post-Old Testament document is *more* authoritative now than the Old Testament is. No major religion since the fall of Jerusalem has taken the Old Testament as its sole or even primary authoritative document. Only the Karaite sect of Judaism has pretended to.[52]

The rabbinic Torah is very different from the Old Testament. Danby comments: "It includes the Written Law, the laws explicitly recorded in the Five Books of Moses; it includes also 'the traditions of the elders' or the Oral Law, namely, such beliefs and religious practices as piety and custom had in the course of centuries, consciously or unconsciously, grafted on to or developed out of the Written Law; and it includes yet a third, less tangible element, a spirit of development, whereby Written Law and Oral Law, in spite of seeming differences, are brought into a unity and interpreted and reinterpreted to meet the needs of changed conditions."[53] In short, there are three elements that comprise the Torah: the Old Testament, the oral law, and casuistry.[54]

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52. The tiny Karaite sect, begun in the mid-eighth century, openly opposed the oral law until the nineteenth century, when Reform Judaism began to take hold of Judaism. The Karaites never became influential. For this entire period, Rabbi Chajes' mid-nineteenth-century assessment is representative of the preceding seventeen centuries of Judaism: "Allegiance to the authority of the said rabbinic tradition is binding upon all sons of Israel, since these explanations and interpretations have come down to us by word of mouth from generation to generation, right from the time of Moses. They have been transmitted to us precise, correct, and unadulterated, and he who does not give his adherence to the unwritten law and the rabbinic tradition has no right to share the heritage of Israel; he belongs to the Sadducees or the Karaites who severed connection to us long ago." Chajes, *Student's Guide Through the Talmud*, p. 4.

53. Danby, Introduction, *Mishnah*, pp. xiii–xiv.

54. For a detailed discussion of these additions to the written law of the Old Testament, see R. Travers Herford, *Talmud and Apocrypha* (London: Soncino, 1933), pp. 66–69. Herford was a Unitarian scholar; Soncino Press is the Jewish publishing house that published the official and unabridged English-language Talmud.

The two primary questions that I am raising in this appendix are these: (1) Is traditional Judaism's casuistry even remotely biblical? (2) Is it the product of an anti-Old Testament perspective?

4. Dialecticism and Dualism

Dialecticism is that approach to human knowledge which insists that all truths are inherently opposed to each other. Dialecticism is to human logic what Manichaeanism is to cosmology: the assertion of the eternal struggle of opposites. Whenever we discover dialecticism in questions regarding epistemology—"What can man know, and how can he know it?"—we should also begin our search for traces of ethical dualism, the idea that there is one set of ethical standards for the elite, and another set for those on the outside, the "uninitiated." Exodus 12:49 denies the legitimacy of judicial dualism: "One law shall be to him that is homeborn, and unto the stranger that sojourneth among you." The Old Testament placed everyone in Israel under the same law. God required all the people to assemble one year in seven and listen to a public reading of the whole law: "Gather the people together, men, and women, and children, and thy stranger that is within thy gates, that they may hear, and that they may learn, and fear the Lord your God, and observe to do all the words of this law: And that their children, which have not known any thing, may hear, and learn to fear the Lord your God, as long as ye live in the land whither ye go over Jordan to possess it" (Deuteronomy 31:12–13). All people were expected to be able to understand the specifics and the principles of God's law, "the letter and the spirit." All residents were equal under God's law.

The judicial principle of equality before the civil law made Israel unique in ancient history. Other nations, including Greece and Rome, did not grant non-citizens equal status under the law. Foreigners and resident aliens were not members of the families and clans that alone could lawfully participate in the rites of the city; therefore, they were not entitled to protection by the civil law.[55] Not so in ancient Israel.

This judicial principle of equality before the law is basic to the Bible's *lex talionis* principle of "eye for eye." Rabbinic Judaism denies it. For example, a gentile who so much as strikes a Jew is worthy of death. "R. Hanina said: If a heathen smites a Jew, he is worthy of death, for it is written, *And he looked this way and that way, and when he*

55. Numa Denis Fustel de Coulanges, *The Ancient City* (Garden City, New York: Anchor, [1864] 1955).

saw that there was no man, he slew the Egyptian. R. Hanina also said: He who smites an Israelite on the jaw, is as though he had thus assaulted the Divine Presence; for it is written, *One who smiteth man* [i.e. an Israelite] *attacketh the Holy One*."[56]

This view of the inherent inequality of all men before God's law is a denial of God's command not to respect persons:

> Ye shall not respect persons in judgment; but ye shall hear the small as well as the great; ye shall not be afraid of the face of man; for the judgment is God's: and the cause that is too hard for you, bring it unto me, and I will hear it (Deut. 1:17).

> Thou shalt not wrest judgment; thou shalt not respect persons, neither take a gift: for a gift doth blind the eyes of the wise, and pervert the words of the righteous (Deut. 16:19).

To distinguish different proper penalties for striking Jews as opposed to striking gentiles elevates the Jews to a position of an international elite. This is in accord with Talmudic reasoning. The Talmud offers this doctrine of God's common grace to all men: "*All the families of the earth*, even the other families who live on the earth are blessed only for Israel's sake. *All the nations of the earth*, even the ships that go down from Gaul to Spain are blessed only for Israel's sake."[57]

5. Dialecticism vs. Casuistry

The Talmud is just about useless for writing a Bible commentary, not simply because it is such a difficult set of books to use by Jews or gentiles, but also because the large number of comments by the rabbis are so often very brief, and so often contradictory to each other. A self-conscious dialecticism underlies the Talmud: endless debate without authoritative or logical reconciliation. Dialecticism is one aspect of Judaism's tradition of deliberate secrecy, a tradition adopted by Maimonides in the style of his *Guide of the Perplexed*.[58]

A good example of this Talmudic dialecticism is the debate over whether gentiles should be allowed to read the Torah (the five books of Moses). Consider the saying of Rabbi Johanan, on which Maimonides' assertion cited at the beginning of this appendix is based:

56. *Sanhedrin* 58b.

57. *Yehamoth* 63a.

58. ". . . Maimonides deliberately contradicts himself, and if a man declares both that *a* is *b* and that *a* is not *b*, he cannot be said to declare anything." Leo Strauss, "How to Read The Guide of the Perplexed," in Moses Maimonides, *The Guide of the Perplexed*, 2 vols., trans. Shlomo Pines (Chicago: University of Chicago Press, 1963), p. xv.

"R. [Rabbi] Johanan said: A heathen who studies the Torah deserves death, for it is written, *Moses commanded* us *a law for an inheritance*; it is our inheritance, not theirs." Johanan was one of the most prestigious of the rabbis, a disciple of Hillel (late first century B.C.).[59] Yet in the same paragraph is recorded the saying of Rabbi Meir, an equally prestigious authority, both jurist and preacher, from the second century A.D.: "...even a heathen who studies the Torah is as a High Priest!" So, which is it? Maimonides sided with Johanan, but he could as easily have sided with Meir. This is the main problem in assessing the ethical pronouncements of the Talmud. There is seldom any effective resolution of conflicting viewpoints. This is the characteristic feature of the Talmud: a mountain of brief, sometimes outlandish statements, without any coherent resolution. Paul, a former Pharisee (Phil. 3:5), warned Titus regarding such speculation: "But avoid foolish questions, and genealogies, and contentions, and strivings about the law; for they are unprofitable and vain" (Titus 3:9). Thirty-four fat volumes of this material is wearying to the soul.

The rabbis were often incredibly obscure, in stark contrast to the clear statements of the biblical texts. This was a major point of conflict between Sadducees and Pharisees before the destruction of Jerusalem: the Sadducees believed that the texts of the Torah are clear.[60] Wrote Lauterbach of the Sadducees: "They would not devise ingenious methods to explain away a written law or give it a new meaning not warranted by the plain sense of the words."[61] The Pharisees disagreed with the Sadducees on this method of interpretation, and the Talmud is the book of the Pharisees. Its comments are often contrary to the biblical text. For example, what are we to make of this comment, obviously an application of Leviticus 18:23 and 21:7, the prohibition on bestiality? "R. [Rabbi] Shimi b. [son of] Hiyya stated: A woman who had intercourse with a beast is eligible to marry a priest."[62] The footnote by the modern Soncino Press commentator makes it even worse: "Even a High Priest." The Old Testament sets forth this rule for the high priest: "And he shall take a wife in her virginity. A widow, or a divorced woman, or profane, or an harlot, these shall he not take: but he shall take a virgin

59. *Sanhedrin* 59a.

60. Lauterbach, "Sadducees and Pharisees," *Rabbinical Essays*, p. 31.

61. *Ibid*., p. 32. The Sadducees were not "proto-Christians," however. They did not believe in the resurrection of the dead, for example, which is why Paul successfully divided the crowd of hostile Jews by claiming that he was being persecuted simply because he accepted the idea of the resurrection (Acts 23:6–10).

62. Babylonian Talmud, *Yebamoth* 59b.

of his own people to wife" (Lev. 21:13–14). Are we being asked by the rabbis to regard as a virgin a woman who has committed bestiality?

Major university libraries will generally have a complete set of the Soncino Press Babylonian Talmud. Because very few English-speaking Christians or Jews have ever even seen a set of the Talmud, let alone read in it, they owe it to themselves to locate a set, open at random in any volume, and carefully read five consecutive pages. Just five pages; that will be sufficient. As they read, they will repeatedly ask themselves this question: "What in the world is this all about?" Then will come a second question: "How can anyone make sense of this?" Most of all, this question: "What has any of this got to do with the Old Testament?"

6. "You Have Heard It Said"

Orthodox Judaism is not simply "Old Testament theology without Jesus." It is the religion of "You have heard it said." This was Jesus' repeated response to the erroneous oral teachings of the Pharisees. We can do the same as we read the Talmud. For example:

> "You have heard it said that gentiles who oppose Israel spend eternity in the nether world being boiled in semen, while Christians spend eternity with Jesus in boiling excrement,[63] but I say unto you that the New Testament teaches of a far worse eternity for covenant-breakers."

> Or: "You have heard it said that Adam had intercourse with every beast of the field before cohabiting with Eve,[64] but I tell you that bestiality is a great sin before God."

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63. Babylonian Talmud, *Gittin* 56b–57a. The text tells a story of a sorcerer, Onkelos son of Kolonikos: "He then went and raised Balaam by incantations. He asked him: Who is in repute in the other world? He replied: Israel. What then, he said, about joining them? He replied: *Thou shalt not seek their peace nor their prosperity all thy days for ever*. He then asked: What is your punishment? He replied: With boiling hot semen. He then went and raised by incantations the sinners of Israel. He asked them: Who is in repute in the other world? They replied: Israel. What about joining them? They replied: Seek their welfare, seek not their harm. Whoever touches them touches the apple of his eye. He said: What is your punishment? They replied: With boiling hot excrement, since a Master has said: Whoever mocks at the words of the Sages is punished with boiling hot excrement."

What has all this got to do with Christ and Christians? Everything. The entry for "Jesus" in *The Jewish Encyclopedia* says that the name of Balaam refers to Jesus, who was "the prototype of Jesus." It specifically cites this passage in the Talmud, Gittin 56a–57b, and it equates "the sinners of Israel" with Jesus. It says of Onkelos, "He asked Jesus: 'Who is esteemed in that world?' Jesus said: 'Israel.' 'Shall one join: them?' Jesus said to him: 'Further their well-being; do nothing to their detriment; whoever touches them touches even the apple of His eye.'" *Jewish Encyclopedia*, 12 vols. (New York: Funk & Wagnalls, 1904), VII, p. 172.

64. "R. [Rabbi] Eleazar further stated: What is meant by the Scriptural text, *This is*

> Or: "You have heard it said that a homosexual who seduces a boy under the age of nine need have no guilt, while others have argued that age three is the minimum,[65] but I say unto you that anyone who does this should be executed, as required by biblical law."

Did you read the footnotes? This is only the beginning, but it should be sufficient. You now recognize that the Talmud is not a conventional commentary on the Old Testament, although with certain key New Testament concepts missing. On the contrary, the Talmud's contents are only peripherally related to the Old Testament. The Talmud is a giant exercise in finding ways to escape the Old Testament texts. The Pharisees were in rebellion against God's law, all in the name of God's law. This was Jesus' assertion from the beginning:

> Woe unto you, scribes and Pharisees, hypocrites! for ye compass sea and land to make one proselyte, and when he is made, ye make him twofold more the child of hell than yourselves. Woe unto you, ye blind guides, which say, Whosoever shall swear by the temple, it is nothing; but whosoever shall swear by the gold of the temple, he is a debtor! Ye fools and blind: for whether is greater, the gold, or the temple that sanctifieth the gold? And, Whosoever shall swear by the altar, it is nothing; but whosoever sweareth by the gift that is upon it, he is guilty. Ye fools and blind: for whether is greater, the gift, or the altar that sanctifieth the gift? Whoso therefore shall swear by the altar, sweareth by it, and by all things thereon. And whoso shall swear by the temple, sweareth by it, and by him that dwelleth therein. And he that shall swear by heaven, sweareth by the throne of God, and by him that sitteth thereon. Woe unto you, scribes and Pharisees, hypocrites! for ye pay tithe of mint and anise and cummin, and have omitted the weightier matters of the law, judgment, mercy, and faith: these ought ye to have done, and not to leave the other undone. Ye blind guides, which strain at a gnat, and swallow a camel. Woe unto you, scribes and Pharisees, hypocrites! For ye make clean the outside of the cup and of

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now bone of my bones, and flesh of my flesh? This teaches that Adam had inter course with every beast and animal but found no satisfaction until he cohabited with Eve." Babylonian Talmud, *Yebamoth* 63a. Eleazar was an important scholar of the oral law in the years immediately following the fall of Jerusalem in A.D. 70.

65. "Rab said: Pederasty with a child below nine years of age is not deemed as pederasty with a child above that. Samuel said: Pederasty with a child below three years is not treated as with a child above that." Babylonian Talmud, *Sanhedrin* 54b. The modern commentator's note explains: "Rab makes nine years the minimum; but if one committed sodomy with a child of lesser age, no guilt is incurred. Samuel makes three the minimum." Rab is the nickname of Rabbi Abba Arika (175?–247 A.D.), the founder of the Jewish academy in the Persian city of Sura [Sora], one of the three great Jewish academies in Persia. Samuel was Mar-Samuel (180–257 A.D.), Rab's contemporary and fellow teacher at Sura, a master of Jewish civil law. See Heinrich Graetz, *History of the Jews*, II, pp. 512–22.

> the platter, but within they are full of extortion and excess. Thou blind Pharisee, cleanse first that which is within the cup and platter, that the outside of them may be clean also. Woe unto you, scribes and Pharisees, hypocrites! for ye are like unto whited sepulchres, which indeed appear beautiful outward, but are within full of dead men's bones, and of all uncleanness (Matthew 23:24–27).

What the average Christian does not suspect is that modern Orthodox Jews are the self-conscious and self-proclaimed spiritual heirs of the Pharisees. This is what distinguishes them in their own eyes from Conservative Jews and Reform Jews.

D. Departing From the Old Testament Texts

This tradition of departing from the biblical text was maintained by medieval Jewish commentators. S. M. Lehrman was quite forthright about this: "To the rabbis, it was a trivial criticism that at times their explanations were somewhat remote from the actual literary meaning (*peshat*) of the text they sought to illuminate. Surely, the thing that mattered most was to make the Scriptures a living book with a message for all times."[66] If this really is what matters most, then the Talmud failed. Men cannot depart from the original meaning of the text without killing the Torah.[67]

David Weiss, formerly an Orthodox Jew but now a professor at the Conservative Jewish Theological Seminary,[68] was a master of the Talmud, the model for the character David Malter in Chaim Potok's novel, *The Promise*. He devoted his academic career to a detailed study of the various versions of the Talmud in an attempt to piece together the true text. This discipline is what Christians call "lower criticism" when applied to biblical texts. Here is how Weiss describes the effective use of the Talmud: "With one hand you acknowledge God's existence. At the same time, you want to have some maneuverability. Studying critically is contending with God's writ—acknowledging it but using criticism to alter it. Man is powerless vis-a-vis God and powerful vis-a-vis His Torah. *There* he can assert his independence

66. S. M. Lehrman, *The World of the Midrash* (London: Thomas Yoseloff, 1961), p. 11.

67. What makes the Bible unique among all books is its permanent ethical applicability within a world of historical change. This is because it is the word of God. It ap lies perpetually because it is valid eternally. No other document in man's history has possessed or can possess this characteristic.

68. "Like the Orthodox, the Conservatives accept the Torah; but, unlike the Ortho ox, they do not necessarily accept it as of divine origin." Gaer and Wolf, *Our Jewish Heritage*, p. 25.

by offering an interpretation different from the one God intended."[69]

It was this approach to Old Testament law that Jesus publicly challenged. This is the heart and soul of Phariseeism. The rabbinic compilers of Jewish oral law or "Unwritten Torah" (Mishnah) understood what they were doing: substituting the speculations of men for the "low maneuverability" biblical texts. The compilers of the rabbis' comments on the Mishnah (Gemara) also understood what they were doing. The Talmud is the product of their compiling of Mishnah and Gemara. The fundamental premise of the Talmud is incorrect: that it is more meritorious to read the Mishnah and Talmud than to read the Old Testament. "Our rabbis taught: They who occupy themselves with the Bible [alone] are but of indifferent merit; with Mishnah, are indeed meritorious, and are rewarded for it; with Gemara—there can be nothing more meritorious; yet run always to the Mishnah more than to the Gemara. Now, this is self-contradictory."[70] This, by the way, is an example of the dialecticism that is basic to the Talmud.

E. A Most Peculiar Book

Orthodox Jews believe that the Talmud is an inspired book. They do not treat is as "folklore." They treat it as authoritative.

The Old Testament forbade Molech worship. "And thou shalt not let any of thy seed pass through the fire to Molech, neither shalt thou profane the name of thy God: I am the Lord" (Lev. 18:21). This is repeated in Leviticus 20:2–5. What does the Talmud say about this practice?

> *MISHNAH*. HE WHO GIVES OF HIS SEED TO MOLECH INCURS NO PUNISHMENT UNLESS HE DELIVERS IT TO MOLECH AND CAUSES IT TO PASS THROUGH THE FIRE. IF HE GAVE IT TO MOLECH BUT DID NOT CAUSE IT TO PASS THROUGH THE FIRE, OR THE REVERSE, HE INCURS NO PENALTY, UNLESS HE DOES BOTH. [The Mishnah is always in capital letters in the Talmud—G. N.]
>
> *GEMARA*. The Mishnah teaches idolatry and giving to Molech. R. Abin said: Our Mishnah is in accordance with the view that Molech worship is not idolatry. . . . R. Simeon said: If to Molech, he is liable; if to another idol, he is not.[71]

> R. Aha the son of Raba said: If one caused all his seed to pass through [the fire] to Molech, he is exempt from punishment, because it is written, of *thy seed* implying, but not all thy seed.[72]

69. Israel Shenker, "A Life in the Talmud," *New York Times Magazine* (Sept. 11, 1977).
70. *Baba Mezia* 33a.
71. *Sanhedrin* 64a.
72. *Sanhedrin* 64b.

This approach to ethics and civil law has become known as "Talmudic reasoning."

Much of the Talmud's space is devoted to diet. For example, it says that eating dates makes a person ineligible to render a legal decision. "Rab said: If one has eaten dates, he should not give a legal decision. An objection was raised. Dates are wholesome morning and evening, in the afternoon they are bad, at noon they are incomparable. . . ."[73] To cure swollen glands, eat the dust from the shadow of a privy. "To make the flesh close he should bring dust from the shadow of a privy and knead it with honey and eat. This is effective."[74] Bladder stones are dealt with as follows: "For stone in the bladder let him take three drops of tar and three drops of leek juice and three drops of clear wine and pour it on the membrum of a man or on the corresponding place in a woman. Alternatively he can take the ear of a bottle and hang it on the membrum of a man or on the breasts of a woman. Or again he can take a purple thread which has been spun by a woman of ill repute or the daughter of a woman of ill repute and hang it on the membrum of a man or the breasts of a woman. Or again he can take a louse from a man and a woman and hang it on the membrum of a man and the corresponding place in a woman; and when he makes water he should do so on dry thorns near the socket of the door, and he should preserve the stone that issues, as it is good for all fevers."[75]

It offers very specific explanations of the origins of specific diseases. Consider the causes of epilepsy: "And do not stand naked in front of a lamp, for it was taught: He who stands naked in front of a lamp will be an epileptic, and he who cohabits by the light of a lamp will have epileptic children."[76]

It offers comments on such seemingly trivial topics as the proper disposal of fingernails, and the consequences of ignoring this advice. "Three things were said in reference to nails: One who buries them is righteous; one who burns them is pious and one who throws them away is a villain! What is the reason? Lest a pregnant woman should step over them and miscarry."[77]

The Old Testament's teaching on how people should deal with sin is very clear: "He that covereth his sins shall not prosper: but whoso confesseth and forsaketh them shall have mercy" (Proverbs 28:13).

73. *Kethuboth* 11a.
74. *Gittin* 69a
75. *Gittin* 69b.
76. *Peshaim* 112b.
77. *Moed Katan* 18a.

"Wash you, make you clean; put away the evil of your doings from before mine eyes; cease to do evil" (Isaiah 1:16). There is no second strategy. The Talmud suggests a second strategy: "For R. Ilai says, If one sees that his [evil] *yezer* is gaining sway over him, let him go away where he is not known; let him put on sordid clothes, don a sordid wrap and do the sordid deed that his heart desires rather than profane the name of Heaven openly."[78]

The wages of sins not recorded in the Book of Judges: "That wicked wretch [Sisera] had sevenfold intercourse [with Jael] at that time, as it says, *At her feet he sunk, he fell, he lay*; etc."[79]

A way to get even with one's enemies: "In R. Judah's opinion the snake's poison is lodged in its fangs; therefore, one who causes it to bite [by placing its fangs against the victim's flesh] is decapitated, whilst the snake itself is exempt. But in the view of the Sages the snake emits the poison of its own accord; therefore the snake is stoned, whilst he who caused it to bite is exempt."[80]

Binding, you may bind: "Raba said: If one bound his neighbor and he died of starvation, he is not liable to execution Raba also said: If he bound him before a lion, he is not liable "[81]

Their view of women: "ENGAGE NOT IN TOO MUCH CONVERSATION WITH WOMEN. THEY SAID THIS WITH REGARD TO ONE'S OWN WIFE, HOW MUCH MORE [DOES THE RULE APPLY] WITH REGARD TO ANOTHER MAN'S WIFE."[82] Maimonides' comments do not make the passage any more acceptable: "It is a known thing that for the most part conversation with women has to do with sexual matters."[83] This view is consistent with the Talmud's general view of women: "The world cannot do without either males or females. Yet happy is he whose children are males, and alas for him whose children are females."[84] At least one section of the Talmud questions the wisdom of instructing women in the law: "How then do we know that others are not commanded to teach her?—Because it is written, '*And ye shall teach them your* sons'—but not your daughters."[85]

78. *Mo'ed Katan* 17a.
79. *Nazir* 23b.
80. *Sanhedrin* 78a.
81. *Sanhedrin* 77a.
82. *Aboth*, Chap. I. This is the famous *Pierke Aboth*, or "Sayings of the Fathers."
83. Cited by Judah Goldin, *The Living Talmud* (University of Chicago Press, 1957), p. 55.
84. *Baba Bathra* 16b.
85. *Kiddushin* 29b.

1. The Question of Circumcision

Most important of all is circumcision, the Talmud says.

> It was taught: Rabbi said, Great is circumcision, for none so ardently busied himself with [God's] precepts as our Father Abraham, yet he was called perfect only in virtue of circumcision, as it is written, "*Walk before me and be thou perfect*, and it is written, *And I will make my covenant between me and thee*. Another version [of Rabbi's teaching] is this: Great is circumcision, for it counter-balances all the [other] precepts of the Torah, as it is written, *For after the tenor of these words I have made a covenant with thee and with Israel*. Another version is: Great is circumcision, since but for it heaven and earth would not endure, as it is written, *[Thus saith the Lord,] But for my covenant by day and night, I would not have appointed the ordinances of Heaven and earth*.[86]

Contrast these words with Paul's: "But as God hath distributed to every man, as the Lord hath called everyone, so let him walk. And so ordain I in all churches. Is any man called being circumcised? Let him not become uncircumcised. Is any called in uncircumcision? Let him not be circumcised. Circumcision is nothing, and uncircumcision is nothing, but the keeping of the commandments of God" (I Cor. 7:17–19). He warned all men that the issue of life and death is obedience to the God who imposed the requirement of circumcision on the Jews.

> For circumcision verily profiteth, if thou keep the law: but if thou be a breaker of the law, thy circumcision is made uncircumcision. Therefore if the uncircumcision keep the righteousness of the law, shall not his uncircumcision be counted for circumcision? And shall not uncircumcision which is by nature, if it fulfil the law, judge thee, who by the letter and circumcision dost transgress the law? For he is not a Jew, which is one outwardly; neither is that circumcision, which is outward in the flesh: But he is a Jew, which is one inwardly; and circumcision is that of the heart, in the spirit, and not in the letter; whose praise is not of men, but of God (Rom. 2:25–29).

This is why he could write of Christians: "For we are the circumcision, which worship God in the spirit, and rejoice in Christ Jesus, and have no confidence in the flesh" (Phil. 3:3).

It should not be surprising that there has been a conflict of views for almost two millennia between Talmudic Jews and Christians.The two religions are very different. Jesus summarized these irreconcilable differences with His words, "you have heard it said... but I say unto you."[87] Paul, a former Pharisee, was even more blunt:

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86. *Nedarim* 32a.

87. I have relied in this section on the summaries and photocopies of 163 passages in the English-language Talmud which was published in *Christian News* (July 25, 1988 and

> For there are many unruly and vain talkers and deceivers, specially they of the circumcision: Whose mouths must be stopped, who subvert whole houses, teaching things which they ought not, for filthy lucre's sake. One of themselves, even a prophet of their own, said, The Cretians are alway liars, evil beasts, slow bellies. This witness is true. Wherefore rebuke them sharply, that they may be sound in the faith; Not giving heed to Jewish fables, and commandments of men, that turn from the truth. Unto the pure all things are pure: but unto them that are defiled and unbelieving is nothing pure; but even their mind and conscience is defiled. They profess that they know God; but in works they deny him, being abominable, and disobedient, and unto every good work reprobate (Titus 1:10–16).

2. Printing Makes a Difference

When a gentile reads the Talmud or Talmud-related writings, he necessarily enters into Talmud forbidden ground. If study by gentiles of the written Torah itself is forbidden by Talmudic law, then surely the once-secret Jewish oral tradition of the Torah is prohibited. But when the Talmud is made available in vernacular languages by those who are still believers in its sacred character, the traditional criticisms against gentiles who read it necessarily fade. Perhaps even more obviously to those who have struggled through as few as three consecutive pages of the Talmud, by making available a comprehensive index, its defenders in principle thereby "opened the book." Its English-language translators, editors, and publisher have moved the Talmud from the world of religion exclusively to the world of open scholarship. This has clearly modified the ancient rules.

Of course, this has always been the dilemma of Talmudic Judaism. Maimonides faced it when he wrote A *Guide of the Perplexed* (1190). Leo Strauss was correct: the *Guide* is devoted to "the difficulties of the Law" or to "the secrets of the law": "Yet the Law whose secrets Maimonides intends to explain forbids that they be explained in public, or to the public; they may only be explained in private and only to such individuals as possess both theoretical and political wisdom as well as the capacity of both understanding and using allusive speech; for only 'the chapter headings' of the secret teaching may be transmitted even to those who belong to the natural elite. Since every explanation given in writing, at any rate in a book, is a public explanation, Maimonides seems to be compelled by his intention to transgress the Law."[88] Maimonides was quite forthright about this need for secrecy:

August 1, 1988), a conservative Lutheran tabloid, New Haven, Missouri.

88. Strauss, "How to Begin to Study The Guide of the Perplexed," in Maimonides,

> For my purpose is that the truths be glimpsed and then again be concealed, so as not to oppose that divine purpose which one cannot possibly oppose and which has concealed from the vulgar among the people those truths especially requisite for His apprehension. As He has said: *The secret of the Lord is with them that fear Him* [Ps. 25:14]. Know that with regard to natural matters as well, it is impossible to give a clear exposition when teaching some of their principles as they are. For you know the saying of [the Sages], *may their memory be blessed: The Account of the Beginning ought not to be taught in the presence of two men* [Babylonian Talmud, *Hagigah*, 11b]. Now if someone explained all those matters in a book, he in effect would be teaching them to thousands of men. Hence these matters too occur in parables in the books of prophecy. The *Sages, may their memory be blessed*, following the train of these books, likewise have spoken of them in riddles and parables, for there is a close connection between these matters and the divine science, and they too are secrets of that divine science.[89]

> In speaking about very obscure matters it is necessary to conceal some parts and to disclose others. Sometimes in the case of certain dicta this necessity requires that the discussion proceed on the basis of a certain premise, whereas in another place necessity requires that the discussion proceed on the basis of another premise contradicting the first one. In such cases the vulgar must in no way be aware of the contradiction; the author accordingly uses some device to conceal it by all means.[90]

There may be Orthodox Jews who will criticize me for going to the Talmud and extracting these embarrassing passages for the purpose of public disclosure and debate. They may say that I am misinterpreting these passages because I am not familiar with another oral teaching tradition that somehow explains away these passages. This would imply that there is a still more secret tradition. Even if this criticism is correct—that a consistent, universally agreed-upon secondary secret oral teaching does exist which explains the primary oral (now translated and printed) once-secret tradition—and even if this additional secret oral teaching does offer interpretations that somehow make

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Guide of the Perplexed, p. xiv. Strauss argued that Maimonides overcame this restriction by adopting literary techniques that made the *Guide* itself a secret writing: p. vx. It was Maimonides' emphasis on secrecy and rigorous writing that influenced the Jewish political theorist Strauss and his followers. Political philosopher and former U. S. Senator John P. East insisted that Strauss "cast himself in the role of a modern Maimonides"; this can be seen in Strauss' book, *Persecution in the Art of Writing* (Westport, Connecticut: Greenwood, [1952] 1973). Cf. John P. East, "Leo Strauss and American Conservatism," *Modern Age*, XXI (Winter 1977), p. 7; Archie P. Jones, "Apologists of Classical Tyranny: An Introductory Critique of Straussianism," *Journal of Christian Reconstruction*, V (Summer 1978), pp. 112–14.

89. Maimonides, *Guide* 3b–4a; pp. 6–7.

90. *Guide* 10b; p. 18.

these passages in the Talmud appear morally acceptable, all of which 1 sincerely doubt, Orthodox Jews must then face the reality of any appeal to yet another oral tradition. A tradition of secondary oral explanations and glosses on a 1500-year-old written version (the Talmud) of an authoritative ancient oral tradition is not going to be regarded by outsiders (or even Orthodox Jewish insiders, I suspect) as equally authoritative. What is printed eventually becomes authoritative, especially in the field of civil and criminal law. Lawyers and casuists appeal to known written sources. The Talmud stands as written.

Orthodox Judaism by 1952 had at long last provided the English-speaking public with an officially sanctioned, expensively published version of the Talmud: seemingly unexpurgated, fully annotated, and professionally edited. Until the era of the Industrial Revolution, the Talmud was regarded by all Jews except a handful of Karaites as the sacred oral tradition of Judaism. Orthodox Jews should therefore not object when a gentile reads the Talmud, cites it verbatim, and criticizes it whenever he can demonstrate that it is obviously at odds with non-Talmudic morality. What else did they expect when they published it? They should refrain from criticizing gentiles who are critical of the Talmud's ethics unless they are prepared to discuss these issues in public without appealing to the escape hatch of an even more authoritative secret oral tradition which cannot lawfully be revealed.

3. Debating Ethical Standards

Why should Orthodox Jews be surprised or even upset when non-Jews react strongly against the Talmud's teaching, for example, that it is legitimate for a man to have sexual relations with a little girl, just so long as she is under the age of three? The Mishnah says: "WHEN A GROWN-UP MAN HAS HAD SEXUAL INTERCOURSE WITH A LITTLE GIRL, OR WHEN A SMALL BOY HAS HAD INTERCOURSE WITH A GROWN-UP WOMAN, OR [WHEN A GIRL WAS ACCIDENTALLY] INJURED BY A PIECE OF WOOD [IN ALL CASES] THEIR KETHUBAH IS TWO HUNDRED [ZUZ]; SO ACCORDING TO R. MEIR."[91] Then the Gemara explains: "It means this: When a grown-up man has intercourse with a little girl it is nothing, for when the girl is less than this [annotation: "Lit., 'here', that is, less than three years old"] it is as if one puts a finger into the

91. *Kethuboth* 11a.

eye; . . ."[92] Should Orthodox Jews really expect Christians to accept the moral validity of such a teaching? Surely the vast majority of Jews today would reject it if they knew about it, which they do not.

As I said earlier, it might be argued that the rabbis were not really arguing for such a seemingly grotesque ethical principle, that it was all some sort of hypothetical debate. This particular debate in the Talmud concerned the kethubah. The kethubah was a deed given by a husband to his bride which specified that if he divorced her, she would receive a monetary payment. The minimum payment was 200 zuzim[93] for virgins, but only 100 zuzim for non-virgins.[94] A defender of the Talmud might argue that what the Mishnah really teaches is the perfectly reasonable principle that very young girls who are subjected to the kinds of intercourse described in the text are to be considered as virgins. While it would be possible to argue that this law's ethical concern focuses only on the innocence of the girl under three year old who is sexually abused, and that the words "it is nothing" refer only to her, and not to her abuser, then the question inevitably arises: What about the girl aged three years and older? Why treat a four-year-old sexually abused girl as a willing fornicator for the purposes of establishing her kethubah price? Furthermore, why treat as a virgin an adult woman who deliberately has had sexual relations with a small boy who is "less than nine years of age,"[95] as the annotator says?

Christians do not ask such questions today. Therefore, Jews do not answer them. The fact is, virtually all modern Christian scholars—at least those who publish—are completely unfamiliar with the passages in the Talmud that I have cited in this essay, and Jews do not try to defend such passages; they remain discreetly silent. There has been a kind of implicit cease-fire agreement regarding the ethical details of the Talmud, and a willingness on both sides to limit all discussions of the ethics of traditional Judaism and especially the Talmud to general ethical principles that have been derived from the less controversial passages. So, over the years, the Talmud has fallen into the shadows. Most Jews do not read it any more. Yet it is only here that we find a detailed account of what Paul calls "the traditions of my fathers" (Gal. 1:14).

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92. *Kethuboth* 11b.

93. .The smallest Jewish coin was the zuz.

94. Cf. "Ketubbah," in *The Principles of Jewish Law*, edited by Menachem Elan (Jerusalem: Keter, [1975?]), col. 387.

95. *Kethuboth* 11a.

4. Concealment and Initiation

Jews for many centuries hid the Talmud from the eyes of gentiles. They correctly surmised that Christian leaders would be shocked and outraged if they thought that such teachings were the basis of the autonomous civil legal order that Jews enjoyed through most of medieval history. From time to time, the authorities ordered the confiscation and burning of copies of the Talmud. Rabbi Trattner provides a list of about two dozen of these edicts, from 1240 to 1757.[96] But he misleads his Christian audience (his publisher, Thomas Nelson, published and still publishes predominantly Christian books) when he offered these three reasons why Christian magistrates have been so hostile to the Talmud in the past:

> 1. Since it forms the main teaching of the Jewish religion, it has been regarded as the supreme obstacle in preventing Jews from being converted to Christianity.
>
> 2. Since the *Talmud* interprets the Old Testament by reshaping ancient Biblical laws to meet the needs of post-Biblical times, it has been charged with the falsification of Scripture.
>
> 3. Since the *Talmud* is a non-Christian production, it has been accused of harboring an evil and irreverent attitude towards Christ and the Church.[97]

Would he say that teaching that Jesus Christ and His followers will be boiled in hot semen and hot excrement for eternity constitutes a reverent attitude? Are Christians supposed to believe that this is a reverent "attitude toward Christ and the Church"?

He went on: "For many centuries the *Talmud* was regarded as mysterious and a source of blasphemous statements against Christianity. This suspicion was not only grossly untrue but it was magnified and distorted by ignorance of the *Talmud*. The inability of Christian scholars to read the *Talmud* made matters worse."[98] An uncensored (as far as we gentiles know) version of the *Talmud* is now in English. Those few of us who bother to consult it still do not find that these ancient suspicions have been calmed. They have in fact been confirmed.

I do not think that Michael Rodkinson was being any more honest than Rabbi Trattner when he wrote these words in the Preface to his expurgated version of the Talmud: "The Talmud is free from the narrowness and bigotry with which it is usually charged, and if phrases

96. Ernest R. Trattner, *Understanding the Talmud* (New York: Thomas Nelson & Sons, 1955), pp. 200–1.

97. *Ibid.*, p. 198.

98. *Idem*.

used out of their context, and in a sense the very reverse from that which their author intended, are quoted against it, we may be sure that those phrases never existed in the original Talmud, but are the later additions of its enemies and such as never studied it."[99] Then came the Soncino edition.

It is my belief that mandatory training in the oral law served covenant-breaking Judaism for at least two millennia as a means of initiating its religious leaders into what was basically a secret society. By requiring its brightest adolescent males to go through long hours of memorization and discussion of such material, year after year, if they wanted to become rabbis, Judaism for almost two millennia sidetracked its best and brightest young men into some very peculiar ethical avenues—peculiar at least to the outlook of Christians.

It is also my contention that the unprecedented economic, intellectual, and cultural strides made by Jews in the West could begin, and did begin, only when their young men at last were allowed to become rabbis and leaders within the community without being required to go though this initiatory process. But a price has been extracted by Western society for this advancement. The price has been the steady secularization of the vast majority of Jews, just as Orthodox rabbis have warned their upwardly mobile brethren from the early decades of the nineteenth century until today. Most Western Jews today have become little more than Karaites without the Pentateuch, or even like Unitarians, though with better business connections.

F. The Erosion of Orthodox Judaism

The heart and soul of Orthodox Judaism is its evolutionary ethical character, not its explicit theology. It is the world's most detailed and self-conscious example of process theology—dialectical, evolutionary, and ultimately open-ended. So radical is this process theology that Orthodox Jews believe that God Himself is continually engaged in a study of His own law, in association with the souls of deceased Jews. This goes on in the Academy on High—a concept so preposterous that modern Jewish scholars downplay it, describe it as merely a metaphor, and refuse to consider the possibility that Jews once took the Talmud and the Old Testament as literally inspired. (Literalism of ancient texts and ancient religious beliefs is simply not permitted to the founders of still-existing Western religions by those who still want the

99. Michael L. Rodkinson, Editor's Preface, *New Edition of the Babylonian Talmud* (Boston: New Talmud Pub. Co., 1903), I, p. xi.

prestige, communal stability, and tenured security provided by the skeptical heirs of these still-literalistic religions.) The uninitiate—a very important word—cannot easily understand this commitment to process. Rabbi Louis Finkelstein was the head of the Jewish Theological Society of America. In his introduction to the reprint of Solomon Schechter's *Aspects of Rabbinic Theology* (1901), he wrote:

> The view that inquiry into the nature and requirements of Torah is more than a human need, being a cosmic process, is even more difficult to communicate to the uninitiate. Doubtless that is why Schechter did not include in his book any discussion of the fundamental Rabbinic concept of the Academy on High. The belief that study of the Torah is one of the Deity's main concerns, and that God Himself is each day expanding the scope and insight of Torah, engaging in this labor in association with the souls of the saints who have departed mortal life, is a theological metaphor; but for the Rabbinic scholars the metaphor represented reality—the profoundest of all realities.
>
> That the Torah is at once perfect and perpetually incomplete; that like the Universe itself it was created to be a process, rather than a system—a method of inquiry into the right, rather than a codified collection of answers; that to discover possible situations with which it might deal and to analyze their moral implications in the light of its teachings is to share the labor of Divinity—these are inherent elements of Rabbinic thought, dominating the manner of life it recommends.[100]

Judaism is a religion that historically has spent very little time on systematic theology and philosophy. "Inherent logical unity can be forced on Judaism only at the cost of distortion," writes Finkelstein.[101] Maimonides in this sense was a self-conscious exception to this tradition. This is one reason why Orthodox Jewish scholars have been nervous about Maimonides from the beginning: *Guide of the Perplexed* has always been perceived as just too philosophical for comfort, too Aristotelian for reliability, however tight a grip his *Strong Hand* has maintained on their thinking.[102] This, despite the fact that he warned the reader, "I adjure—by God, may he be exalted!—every reader of this Treatise of mine not to comment upon a single word of it and not to explain to another anything in it save that which has been explained and commented upon in the words of the famous Sages of our Law who preceded me."[103]

100. Louis Finkelstein, Introduction to New Edition (1961), in Schechter, *Aspects of Rabbinic Theology*, pp. xix–xx.

101. *Ibid.*, p. xiii.

102. For example, Maimonides insisted that "this divine science cannot become actual except after a study of natural science." Guide 5a; p. 9.

103. *Guide* 9a; p. 15.

Judaism is overwhelmingly a religion defined by a system of evolving rules of conduct. Again, Christians have not understood this, for they mistakenly equate Judaism with the fixed rules of the Old Testament. Danby was correct in his evaluation: "The Mishnah is not a finally authoritative corpus of the beliefs and practices of Judaism: it is of the nature of Judaism that it can have no such thing. 'The Law', which alone is Jewish doctrine, has in it an inherent principle of development which, while holding fast to the foundations laid down in the Mosaic legislation, makes it intolerant of dogmatic definition or set credal forms."[104]

1. Evolving Ethics and Cultural Suicide

It is this anti-dogmatism and anti-credalism that is the inescapable fact of Judaism's history, which today threatens to overwhelm mainstream Judaism, just as a very similar theological relativism has very nearly overwhelmed mainstream Christianity. But Christianity has always had an institutional advantage over Orthodox Judaism: it is both credal and judicial, both dogmatic and ethical. Its doctrine of the covenant proclaims fixed biblical laws at its third point.[105]

The revival of Christian casuistry that is presently taking place[106] proclaims self-consciously the authoritative character of the Old Testament's ethical principles and, as my economic commentary indicates, the contemporary applicability of the letter of Old Testament law as well.

The evolutionary judicial character of Judaism has led to the near-destruction of Orthodoxy's influence in Western Judaism. The dual social forces of Western capitalism and secularism established institutional and philosophical foundations that have steadily undermined Talmudic religion and culture. The more ethically evolutionary any particular worldview has been, the more rapidly it has succumbed to this powerful pair of social forces. Judaism was especially vulnerable.

The factor that most threatened Orthodox Judaism was industrial society's growing toleration. In the mid-nineteenth century, when Jews in Western Europe and the United States began to enter the new industrial capitalist world, they found that the older discriminatory

104. Danby, Introduction, *Mishnah*, pp. xv–xvi.

105. Ray R. Sutton, *That You May Prosper: Dominion By Covenant* (Tyler, Texas: Institute for Christian Economics, 1987), ch. 3.

106. I refer here to Christian Reconstruction or theonomy.

legal barriers had been progressively weakened by the new forces of economic competition. An individual's economic productivity in an open ("impersonal")[107] competitive market is judged apart from considerations of his religious affiliation. To the extent that non-market forms of racial or religious discrimination persist, those who discriminate against economically efficient employees or suppliers (or—much more rare—buyers) must pay a price for their actions: reduced income because of reduced efficiency.[108] The free market penalizes economically all those who discriminate on any basis except price and quality of output. Price competition has always been fundamental to the spread of free market capitalism,[109] and Jews became masters of competitive pricing.[110] Jews began to move out of the ghetto. The ghetto's walls, both literal and figurative, came tumbling down.

Jewish legal scholar Menachem Elon argued that it was the Jews' system of separate civil courts that was crucial to the maintenance of the autonomy of Jews as a people. When judicial emancipation began in eighteenth-century Western Europe, this autonomous character of Judaism began to erode. Jews were increasingly entitled to civil justice in secular civil courts, and they took advantage of this revolutionary development. Jewish commercial law and other areas of "secular world" law began to atrophy. This secularism began to undermine the foundations of Orthodox Judaism[111]—a term which itself was the product of the process of change.[112] Rabbi Samson Raphael Hirsch

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107. On the proper and improper use of the term "impersonal" to describe market economies, see Gary North, *Sovereignty and Dominion: An Economic Commentary on Genesis* (Dallas, Georgia: Point Five Press, [1982] 2012), ch. 1:E.

108. "The least prejudiced sellers will come to dominate the market in much the same way as people who are least afraid of heights come to dominate occupations that require working at heights: They demand a smaller premium." Richard A. Posner, *Economic Analysis of Law* (Boston: Little, Brown, 1986), p. 616.

109. Max Weber, *General Economic History*, trans. Frank H. Knight (New York: Collier, [1920] 1966), p. 230.

110. The common phrase, "he Jewed me down," points to this phenomenon of the Jew as a price-cutter. If one were to say, "he Jewed me up," it would make no sense. The Jew as the price-cutting haggler is universally recognizable, but not the Jew as the price-gouger. He is resented by people in their capacity as producers and retail sellers, not as consumers. Gentiles are always looking for the elusive "Jewish brother-in-law deal."

It is not random that the four ethnic groups that are thought of as price-cutters have had decidedly biblical backgrounds: the Dutch ("Dutch treat" dates are those in which the girl pays), the Scots, the Armenians, and the Jews.

111. Menachem Elon, "Introduction," in Elon (ed.), *The Principles of Jewish Law* (Jerusalem: Keter, 1975), col. 35.

112. It was Rabbi Samson R. Hirsch who accepted the term "Orthodox" which had been used as an epithet by secular Jews in the mid-nineteenth century. I. Grunfeld,

asked the key question which most Jews have refused to face: "What would you have achieved if you became *free* Jews, and you ceased to be *Jews*?"[113] Nevertheless, his own efforts to integrate the techniques and findings of modern science and philosophy with Judaism eventually led to a reduced resistance of Orthodox Judaism to secularism, as surely as Aquinas' analogous efforts had done for Christianity seven centuries earlier.

2. The Faustian Bargain

From the New Testament period to the present, the lure of pagan philosophy has proven irresistible to Jews, as it has also for Christians. Out of Greek philosophy came Hellenism, and Hellenism's influence on early rabbinic Judaism was very great.[114] Nevertheless, the impact of pagan philosophy in Judaism was less direct in the Middle Ages, probably due to the isolation of Jews from the surrounding gentile Christian culture. It is not surprising that the path of Greek philosophy into late medieval Judaism, and then into Christianity, was by way of Islam, especially through Maimonides. Aristotelian Athens came to Paris through Cairo and Spain.

For centuries, Talmudic Judaism resisted the rational categories of pagan wisdom, despite *The Guide of the Perplexed*. But with Rabbi Samson Raphael Hirsch in the mid-nineteenth century, the epistemological barriers began to break down.[115] This process of cultural and intellectual assimilation accelerated rapidly in twentieth-century America, especially after the Second World War. The most prestigious American universities opened their doors to all those who could compete academically, and Jews surely could compete. They at last gained equal access to the professional schools—law, medicine, architecture—as well as to the Ph.D-granting graduate schools. The price they were asked to pay, however, was very high. Too high. The universities offered a Faustian bargain to Jews (and also to Bible-believing Christians): "You may go as high as your brains can carry you, just so long as you leave your religion off campus." Most academically

"Samson Raphael Hirsch—The Man and His Mission," in *Judaism Eternal: Selected Essays from the Writings of Samson Raphael Hirsch* (London: Soncino Press, 1956), p. xlvii.

113. *Ibid.*, p. xxxix.

114. Martin Hengel, *Judaism and Hellenism: Studies in their Encounter in Palestine during the Early Hellenic Period*, 2 vols. (Philadelphia: Fortress Press, 1974). Cf. W. D. Davies, Paul and *Rabbinic Judaism: Some Rabbinic Elemenys in Pauline Theology*, 4th ed. (Philadelphia: Fortress Press, 1980), ch. 1.

115. I. Grunfeld, "Samson Raphael Hirsch—The Man and His Mission," in *Judaism Eternal*.

oriented Jews could not resist this offer.[116] Intermarriage with the gentiles whom they met on campus was also nearly inevitable. Cohen's remarks are on target: "The Jew, in joining the West, no longer joined a Christian West, for he did not join a church wedded to a society. . . . The Jew joined an already de-Christianizing West, and as part of the bargain he agreed—foolishly—to de-Judaize."[117] What Nazi Germany's politics had not achieved in the 1930's, Prussia's earlier export of the academic state certification system did achieve: the suppression of traditional religion through the enthusiastic co-operation of the suppressed. Secular education is the humanist world's hoped-for "final solution" for both orthodox Christianity and Orthodox Judaism.

In the twentieth century, the tide overwhelmed Judaism; first the Nazis and then secularism uprooted Orthodox Judaism. Higher criticism of the Bible has produced the same bitter fruit of skepticism and liberalism in Jewish circles that it has produced in Christian circles.[118] There was not only bitter fruit but also forbidden fruit to be eaten. By the millions, they have feasted on this forbidden fruit. Solomon Schechter was correct: biblical higher criticism was in fact the "higher anti-semitism," for it obliterated the official foundation of the Jewish experience.[119] But this was a case of the hermeneutical chickens com-

116. A very effective presentation of this post-1940 transformation of Judaism is found in Chaim Potok's novel and the movie based on it, *The Chosen*. In the early 1960s, Potok served as editor of the Jewish Publication Society of America's translation of the Hebrew Bible. Potok, "The Bible's Inspired Art," *New York Times Magazine* (Oct. 3, 1982), p. 63.

117. Cohen, *Myth of the Judeo-Christian Tradition*, p. 186.

118. The Jewish scholar most responsible for the introduction of higher criticism into Jewish curricula was the extraordinary linguist, Julian Morgenstern, who also served as president of Hebrew Union College in Cincinnati, Ohio, after 1921. Born in 1881, he was still writing scholarly essays in the mid-1960s in the *Hebrew Union College Annual*. ("The *Hasidim*—Who Were They?" *HUCA*, XXXVIII, 1967.) Indicative of the extent of his life's work was his four-part study, "The Book of the Covenant." Part I appeared in the 1928 issue; Part II appeared in 1930; Part III in 1931–32; and Part IV in 1962. He was elected president of the American Oriental Society in 1928–29 and president of the Society of Biblical Literature in 1941. "Morgenstern assumed a position of pre-eminence as a philosopher and theoretician of Reform Judaism. . . . Modern developments, he showed convincingly, are only the latest manifestations of the adjustments that have taken place over and over whenever Judaism has come into contact with a superior culture." Morris Lieberman, "Julian Morgenstern—Scholar, Teacher and Leader," *Hebrew Union College Annual*, XXXII (1962), p. 6. Morgenstern was a dedicated humanist and internationalist. Cf. Morgenstern, "Nationalism, Universalism, and World Religion," in Charles Frederick Walker (ed.), *World Fellowship, Addresses and Messages by Leading Statesmen of All Faiths, Races and Countries* (New York: Liveright, 1935). This was his address to the second Parliament of Religions, held in Chicago in 1933.

119. Cited in Cohen, *Myth of Judeo-Christian Tradition*, p. xviii.

ing home to roost, for Judaism had long undermined this original foundation through its ever evolving traditionalism.

Traditional Judaism's ethical rules began to change, and therefore the whole religion had to change. Reform Judaism launched a successful intellectual attack on Orthodox Judaism in the early decades of the nineteenth century, leading to the steady isolation of the defenders of old Pharisee tradition, and in the twentieth century, secular Judaism and Conservative Judaism have become the dominant traditions. Orthodox Judaism today retains very little influence outside of the state of Israel. Reform Judaism and Conservative Judaism are overwhelmingly dominant in the West. Secular Jews seem to be the norm today, as far as gentiles can discern. (The most memorable description I have ever read regarding the outlook of secular Jews regarding Judaism is Lis Harris' description of her family, "fans whose home team was the Jews.")[120] Anti-credalism giveth, and anti-credalism taketh away.

G. Hermeneutics: An Inescapable Concept

Commenting on anything requires a principle of interpretation. This is true of Bible commentaries. Principles of interpretation differ, and sometimes very sharply. This means that rival hermeneutical principles can and do become divisive. That, too, is the price of open inquiry. It is a price that must be paid on both sides. There is no way to reconcile these rival principles of biblical interpretation: (1) Jesus as the sole fulfillment of Old Testament messianic prophecies vs. Jesus as a false prophet and blasphemer, for which He was lawfully executed; (2) the New Testament as the sole authoritative commentary on the Old Testament vs. the New Testament as false prophecy; (3) Christians as the only true covenantal heirs of Abraham vs. Jews as the only true covenantal heirs of Abraham. It is the ancient debate, recently revived politically in the state of Israel, over the question, "Who is a Jew?"[121] It is a debate over the truth of Paul's assertion: "For we are the circumcision, which worship God in the spirit, and rejoice in Christ Jesus, and have no confidence in the flesh" (Phil. 3:3). Only theological liberals on both sides of the debate can sensibly play down these differences, since liberals do not accept the truth of either religion's set of hermeneutical principles.

120. Lis Harris, *Holy Days: The World of a Hasidic Family* (New York: Summit Books, 1985), p. 17.

121. In Judaism, this question is really, "Who is the rabbi?" The rabbi sanctions marriages and therefore the legitimacy of the children.

This essay deals with Orthodox Judaism and its relation with orthodox Christianity. Orthodox Christianity is no longer the dominant stream of Christianity in the West, just as Orthodox Judaism is no longer the dominant stream of Judaism outside of the state of Israel, and which is in sharp political conflict with secular Judaism inside that nation. Always in the background of the life of the orthodox Christian and the Orthodox Jew are the liberals "within the camp." The Orthodox Christian does not believe that liberal, mainstream Christianity is *really* Christianity, just as the Orthodox Jew does not believe that mainstream Judaism is *really* Judaism.[122] Van Til was correct in his assessment of the theological unity of the liberal Jew and the liberal Christian:

> When Jesus says that all power is given to him by the Father in view of his death and resurrection, and that he will vanquish the last enemy which is death, the modern Jew and the modern Protestant consider this mythology. The modern Jew will gladly join the modern Protestant in speaking of Christ as a Messiah if only the messianic idea be demythologized by means of the self-sufficient ethical consciousness. The modern Protestant theologian is ready and eager to oblige the modern Jew.[123]

The implicit theological unity that modernism creates between mainstream Christians and Jews—the many shades of Unitarianismin no way reduces the explicit theological disunity between orthodox Christians and Orthodox Jews. The battle over the proper interpretation of the Old Testament still divides the orthodox Christian and the Orthodox Jew, even as it divides Jews from liberal Jews and Christians from liberal Christians. At best, the common "battle for the Text" of Torah-affirming Christians and Jews against the higher critics of the Bible within their respective camps has created pressure for a temporary cease-fire between the besieged camps of the Bible-affirmers. But a temporary cease-fire is not a permanent peace treaty. The war over interpretation is great because of the commitment of both sides to the divine origin of the Old Testament. Again, citing Van Til: "When a Christian worships Christ as the Son of God, he is,

122. There is a problem here for Bible-affirming Christians. They normally do accept as valid the baptisms of converts out of mainstream churches. They would not accept Mormon baptism as valid. So, to some degree, they do accept mainstream churches as still Christian. For the Orthodox Jew, the determination of who is a Jew is established by examining the training of the Rabbi who circumcised him or circumcised her father or husband.

123. Cornelius Van Til, *Christ and the Jews* (Philadelphia: Presbyterian & Reformed, 1968), p. 97.

says the Jew, an idolater. And he sees his mission as that of bringing such an idol-worshiper back to the God of Abraham and of Moses. In seeking to fulfill his mission in relation to Christian idolaters the Jew must, of course, *oppose* the claims of Christ."[124]

H. Is There a Judeo-Christian Tradition?

The battle over hermeneutics is inescapable. The question then must be raised: If Western civilization was Christian in the era of the exclusion of the Jews, and today is humanist to the exclusion of Torah-believing Christians and Jews, to what extent is it valid to speak of a Judeo-Christian tradition? This leads immediately to a second question: To what extent are the respective commitments to the divine origin of the Old Testament a unified commitment, and therefore the basis of the Judeo-Christian tradition in Western history? If the two hermeneutics are permanently divided, how can there be a unified tradition?

It is one of the oddest facts of modern Bible-affirming Christianity that the dispensationalist fundamentalists, who categorically deny the continuing authority of Old Testament law in New Testament times, see themselves as the "soul cousins" if not "soul brothers" of Orthodox Jews. They regard any deviation from the West's support of the state of Israel as a theological deviation, not just bad foreign policy.[125] Yet the only possible basis of a supposed Judeo-Christian tradition would be a mutual commitment to Old Testament legal norms. Yet dispensationalist leaders make statements such as this:

> At the heart of the problem of legalism is pride, a pride that refuses to admit spiritual bankruptcy. That is why the doctrines of grace stir up so much animosity. Donald Grey Barnhouse, a giant of a man in free grace, wrote: "It was a tragic hour when the Reformation churches wrote the Ten Commandments into their creeds and catechisms and sought to bring Gentile believers into bondage to Jewish law, which was never intended either for the Gentile nations or for the church."[126] He was right, too.[127]

Thus, to the extent that there has been a Judeo-Christian tradition in the West, the *consistent, well-informed* dispensationalist is forced by his theology to deny that such a tradition is judicially valid. It has

124. *Ibid.*, p. 1.
125. See, for example, Hal Lindsey, *The Road to Holocaust* (New York: Bantam, 1989).
126. He cites Barnhouse, *God's Freedom*, p. 134.
127. S. Lewis Johnson, "The Paralysis of Legalism," *Bibliotheca Sacra*, Vol. 120 (April/June, 1963), p. 109.

to be seen as the product of a spurious, deviant form of Christianity.

The question that the defender of Old Testament judicial standards must then ask himself is this: Has there been a sufficient unanimity between orthodox Christians and Orthodox Jews over the interpretation and application of Old Testament legal norms to have constituted a Judeo-Christian tradition? This is the question that I am attempting to answer in this essay.

Before dealing with this issue, let me ask a question: Is there a Moslem-Christian tradition? The Moslems claim to believe in both the Old and the New Testaments as God-inspired. If the Christian answers that the Koran (which he has not read) overthrows both the Old and New Testaments, no matter what the Moslem says he believes about the Bible—which in fact is the case—then what about the Mishnah and the Talmud?

Arthur A. Cohen, in his provocatively titled book, *The Myth of the Judeo-Christian Tradition*, which was published by a respected publishing house that specializes in scholarly Jewish studies, denied that this tradition ever existed. It is an intellectual fabrication, he argued. He identified the origins of this myth: the Enlightenment and, later, German liberal Protestant scholarship of the late-nineteenth century.[128] Protestant "higher critics" of the Old Testament were implacably hostile to Old Testament law, so they attempted to disengage the New Testament from the Old. The Jew of the Old Testament was described as being "in bondage to a hopeless legalism. On the one hand the genius of the Hebrew Bible is commended; on the other hand Christianity is set in superior condescension to the traditions of Judaism which survive, like ruins, the advent of Jesus Christ, the new architect of mankind. . . . The Judaism which survives the onslaught of Protestant Higher Criticism is buried under a mountain of historicist formulations, while a pure, virtuous Kantian Christianity—freed from Jewish accretion—is defined. Once more, almost in recapitulation of the Gnostic tendencies of the early Church (though turned this time to a different task), a 'Christo-Jewish' tradition was defined."[129]

This implicit antinomianism of the higher critics was indeed quite similar to the anti-Old Testament perspective of the gnostics. Gnosticism and antinomianism are two sides of the same counterfeit coin. Denying mankind's access in history to a permanent higher law above existing humanist culture, critics of the existing culture face a grim

128. Cohen, *Myth of the Judeo-Christian Tradition*, pp. xviii, 196–200.

129. *Ibid.*, p. 199.

choice: either their absorption into the prevailing culture or their removal from influence, i.e., either assimilation or confinement to a cultural ghetto.[130] The prevailing culture is seen as the equivalent of ethical quicksand; one should not seek to walk through it in the pilgrimage of life. But if men dwell in a self-imposed cultural ghetto, they will be tempted to create a psychological zone of internal retreat in their quest for meaning and significance as they wait for death or eschatological deliverance. What else can they do? They see no way to transform the world, for they have no point of ethical or judicial contact with the world. They do not regard biblical law as a tool of dominion, as a lengthy lever capable of moving the general civilization in the direction of God's permanent standards. On the contrary, they see themselves on the short end of this lever: it is the general culture that threatens to move them by law, not the other way around. Their antinomianism—their lack of faith in permanent biblical standards and the empowering of the Holy Spirit[131]—inevitably produces cultural impotence. This is the legacy of gnosticism, and it is still influential in modern Christianity.[132]

I. Talmud or New Testament?

The conflict between Bible-believing Christians and Orthodox Jews today has not changed in principle since A.D. 30. It is a conflict over the proper interpretation of the Old Testament. Jesus said to the Jewish leaders: "Do not think that I will accuse you to the Father: there is one that accuseth you, even Moses, in whom ye trust. For had ye believed Moses, ye would have believed me: for he wrote of me. But if ye believe not his writings, how shall ye believe my words?" (John 5:45–47). Because contemporary Christians cannot seem to make up their minds about contemporary Jews—whether they are demonic international conspirators or economic and academic supermen who some-

130. This dualism between the individual and society is a manifestation of autonomous man's philosophical dualism between the one and the many. If autonomous man is part of the one (unity), he in principle loses himself, his personality, and his individuality. But if he maintains his independence (autonomy), he loses any point of contact with any other individual. To use one of Cornelius Van Til's analogies, he is like a bead with no hole that seeks attachment to an infinitely long string. Philosophically speaking, without God's higher law and without man as the created image of God, individuals have no logical point of contact with each other.

131. Greg L. Bahnsen, *By This Standard: The Authority of God's Law Today* (Tyler, Texas: Institute for Christian Economics, 1985), pp. 185–86.

132. Philip J. Lee, *Against the Protestant Gnostics* (New York: Oxford University Press, 1987), Pt. III.

how have the favor of God—they have been ineffective witnesses to Christ when in the presence of Jews. Once Christians recognize what Judaism offers to its adherents—the Talmud, or the mystical-magical Kabbalah,[133] or the steady erosion of modern secularization—they will better understand the words of Robert L. Reymond: "The Christian should love the Jew, certainly. But the sooner the Christian realizes that the Jew is as hopelessly lost and as hopelessly blind, if not more so (Rom. 11:6–11), than the Gentile, and that to win the Jew to Christ he must crush any and every hope for salvation which is related in any way to the fact that he is a Jew and a 'son of Torah,' the sooner the Christian will honor his Lord by his witness to the Jew and the more effective will his witness become."[134] There is no valid message of salvation in the Talmud. This was Peter's message to Israel:

> Be it known unto you all, and to all the people of Israel, that by the name of Jesus Christ of Nazareth, whom ye crucified, whom God raised from the dead, even by him doth this man stand here before you whole. This is the stone which was set at nought of you builders, which is become the head of the corner. Neither is there salvation in any other: for there is none other name under heaven given among men, whereby we must be saved (Acts 4:10–13).

Orthodox Judaism is at war with the Old Testament. This is the primary thesis of this essay. But, unlike Reform Judaism, which is infected with the same biblical higher criticism that has undermined mainstream Christianity, Orthodox Judaism claims to accept the Old Testament as the inspired word of God. How, then, can anyone rightfully say that Orthodox Judaism is at war with the Old Testament? Only by accepting Jesus' words literally:

> I am come in my Father's name, and ye receive me not: if another shall come in his own name, him ye will receive. How can ye believe, which receive honour one of another, and seek not the honour that cometh from God only? Do not think that I will accuse you to the Father: there is one that accuseth you, even Moses, in whom ye trust. For had ye believed Moses, ye would have believed me: for he wrote of me. But if ye believe not his writings, how shall ye believe my words? (John 5:43–47).

To demonstrate the accuracy of Jesus' words, I here present a summary of the exegetical methodology of the judicial writings of the

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133. Scholem, *On the Kabbalah and Its Symbolism*; Jacob Z. Lauterbach, "The Belief in the Power of the Word," *Hebrew Union College Annual*, XIV (1949). See also Joshua Trachtenberg, *Jewish Magic and Superstition* (New York: Atheneum, [1939] 1970).

134. Robert L. Reymond, Editor's Preface, to Van Til, *Christ and the Jews*, p. v.

most famous and most respected master of the Talmud in the history of Judaism: Moses Maimonides.

J. Rabbi Moshe ben Maimon, The Rambam

Few gentile scholars have ever heard of the *Mishneh Torah*, but all medieval historians and specialists in the history of Western philosophy know of Maimonides. Moshe, the son of Maimon, better known as Maimonides (1134–1204), is by far the most famous Jew in medieval history. He was the Rambam (Rabbi Moshe ben Maimon: RMBM). He lived in Spain and later in Cairo, where he served as the Sultan's physician. He became world-famous as a physician. Copies of at least 10 of his medical treatises still survive.[135] He is best known for his theological-philosophical treatise, *The Guide of the Perplexed* (a better translation than "guide *to* the perplexed"), completed in 1190. His native tongue was Arabic. He was familiar with the Arabic translations of Aristotle, and he became a major conduit of the flow of Aristotelian philosophy into the Jewish community in Europe, as well as into the Christian community.

What very few non-Jewish scholars are aware of is that he also became the chief classifier of an immense body of Jewish law, which included the Talmud ("study" or "learning"). He wrote a 14-volume study that systematically arranged the teachings of the Jewish rabbis on every aspect of Talmudic law. It was called the *Mishneh Torah* (1180), also known as Maimonides' *Code*.[136] (It is less well known as "The Strong Hand.")[137] It has for centuries remained the definitive summary of the commands of Talmudic law.

The words *mishneh Torah* mean "repetition of the Torah" or law. It is the phrase by which Jews have traditionally identified the Book of Deuteronomy. Deuteronomy restated the Mosaic law for the sake of the children of the generation that had died in the wilderness. Their days of wandering were about to end; they would now face the problems of running God's earthly commonwealth. Lerner wrote: "Maimonides' *Code* has a similar character; in it he restates the laws of the Torah and of the Talmud without limiting himself to those laws that are applicable to life in the Diaspora. Maimonides' *Mishneh Torah*, like Moses', is concerned with the practical needs of an actual state, that

135. Paul Johnson, *A History of the Jews* (New York: Harper & Row, 1987), p. 186.
136. Paul Johnson mentions it, but does not cite it directly.
137. Schachter, Talmudical Introductions, in Chajes, *Student's Guide Through the Talmud*, p. 3n.

is, the Jewish state prior to the Diaspora and after the coming of the Messiah."[138] The influence of this work on medieval and subsequent Judaism was very great, beginning almost from the day he wrote it.

Jewish legal scholar George Horowitz wrote

: "The restatement of Maimonides, the *Mishneh Torah* is still the most orderly and logical classification of the Halakah [Jewish law—G. N.] in existence."[139] He is not alone in his assessment of Maimonides' *Code*. Maimonides specialist Isadore Twersky said that "The *Mishneh Torah*, which was to change the entire landscape of Rabbinic literature, also pushed back the frontiers of Maimonides' sphere of influence and made his fame global as well as imperishable. It transformed him, in the course of a few decades, from the 'light of the East' to 'the light of the [entire] exile.' He almost literally became a major Jewish luminary.... In one broad generalization, we may say that the *Mishneh Torah* became a prism through which reflection and analysis of virtually all subsequent Talmud study had to pass. There is hardly a book in the broad field of Rabbinic literature that does not relate in some way to the *Mishneh Torah*."[140] Furthermore, "The *Mishneh Torah* is reputedly second only to the Bible in the number of commentaries and studies it has elicited."[141]

An incomplete list of 220 major commentaries on the *Mishneh Torah* was made in 1893.[142] Michael Guttman wrote: "The *Mishneh Torah* became the center of the whole halachic literature. It acquired the place of a new code of general esteem and acknowledgment, like the Mishna a thousand years before, and the greatest halakhic scholars entered into competition with each other in composing commentaries to Maimonides and settling the difficulties, which the lack of indicating sources left to them."[143] His fame throughout Europe spread even faster than copies of the *Code*.[144]

138. Ralph Lerner, "Moses Maimonides," in Leo Strauss and Joseph Cropsey (eds.), *History of Political Philosophy* (Chicago: Rand McNally, 1963), p. 193.

139. Horowitz, *Spirit of Jewish Law*, p. 16.

140. Isadore Twersky, *Introduction to the Code of Maimonides (Mishneh Torah)* (New Haven, Connecticut: Yale University Press, 1980), pp. 19–20; cf. 516–18.

141. *Ibid.*, p. 526. Nevertheless, for generations Talmudists refused to mention the *Mishneh Torah* by name: p. 527. This may have been because it enabled laymen to check the decisions of the judges: Johnson, *History*, p. 191.

142. Alexander Marx, *Studies in Jewish History and Booklore* (New York, 1969), pp. 38–41; cited by Johnson, *History*, p. 191.

143. Michael Guttman, "The Decisions of Maimonides in His Commentary on the Mishna," *Hebrew Union College Annual*, II (1925), p. 229.

144. Alexander Marx, "The Correspondence Between the Rabbis of Southern France and Maimonides About Astrology," *ibid.*, III (1926), pp. 325–26.

Why should the *Code* have had such an impact? For one thing, because copies of any book as massive as the Talmud were scarce in the era before modern printing. Maimonides' 14 relatively short volumes were minuscule when compared to the gigantic Talmud. Furthermore, the *Code* is structured by judicial topics; the Talmud's structure is highly complex and intimidating.

1. Maimonides' Use of the Old Testament

I have interacted repeatedly with Maimonides' *Code* in the footnotes of the text of *Tools of Dominion*. Sometimes he got things correctly, and sometimes he did not. It is my task here to deal with the ways that he got things wrong rather than right, as well as the reasons why. I suppose I would have a much more difficult task in writing a chapter analyzing S. R. Hirsch's commentary on Exodus. I find so often that he got things right.[145] How was this possible, when he, like most Orthodox Jews of his day and earlier, must have relied heavily on Maimonides—not Maimonides the Aristotelian philosopher, who was regarded with suspicion by Jewish scholars from the beginning, but Maimonides the Talmudist?

So, I find that I am critical of many of Maimonides' economic and judicial opinions, and through him, of the Talmud. But how does a gentile scholar say this politely yet effectively, and also avoid the counter-charge of anti-Semitism? I suppose he does this in the same way that a Jewish scholar would discuss Martin Luther's notoriously anti-Semitic book on the Jews,[146] yet remain free of "anti-gentilism." All I can

145. Again and again as I wrote this commentary, I found myself turning to Hirsch and citing him. James Jordan was working on his study of the dietary laws during the period that I was working on the case laws. He also noticed this phenomenon: Hirsch frequently makes sense, while the observations in Maimonides' *Code* often seem archaic, superstitious, and irrational. Hirsch sticks to the biblical text far more closely than Maimonides does. Yet he also cites the Talmud, and the conclusions he draws from these citations seem sensible, whereas Maimonides, if he is in fact being faithful to the Talmud (and I find that he seems to be faithful in the cases that I have studied), frequently makes the Talmud seem unreliable. I leave it to Orthodox Jewish scholars to sort out the discrepancies between these two giants of Jewish thought. I have run out of time to pursue the matter.

146. *On the Jews and Their Lies* (1543), published over the years in cheap, poorly printed paperback editions for the anti-Semitic masses, as well as in an expensive hardback collectors' edition by Revisionist Press, 1982. It appears as volume 47 of *Luther's Works* (Philadelphia: Fortress, 1971), pp. 137–306. Luther was not alone in his hostility to Judaism. Two years prior to the publication of his book, his arch-rival, Catholic theologian John Eck, published *Refutation of a Jew-Book*, and two years before this, Calvinist Martin Bucer published *On the Jews*. Luther, however, was typically extreme. He recommended seven steps to be taken by the civil government: 1) burn down ev-

say is this: what we have here is more than a failure to communicate. It is more than a difference over semantics or semitics. It is a fundamental debate over biblical hermeneutics, and both Orthodox Judaism and orthodox Christianity teach that this ultimate division cannot be overcome in principle. It divides Christians from Jews, and has from the first century, whether A.D. or C.E. Cohen was correct: "I suggest in part, therefore, that the Judeo-Christian tradition is a construct, an artificial gloss of reason over the swarm of fedeist passion.... What is omitted is the sinew and bone of actuality, for where Jews and Christians divide, divide irreparably, divide finally...is that for Jews the Messiah is to come and for Christians he has already come. That is irreparable."[147]

From the day that the English-language translation of Maimonides' *Code* was completed, the terms of this division came to the surface of the academic waters, and have drifted along ever since. That this debate has not previously broken out stems mainly from the fact that the two sides that presumably care one way or the other about the underlying religious issues and therefore the hermeneutical questions—Orthodox Jews and orthodox Christians—have not debated publicly, primarily because the Christians have never heard of the *Mishneh Torah*. Very few have read any of the Talmud, either. Maimonides' *Code* is an unknown book that comments on a closed book.

K. Talmud vs. Torah

Maimonides' *Code* does represent both the letter and spirit of the Talmud. This is not simply my opinion. Orthodox Jews have long believed that the *Code* is faithful to the Talmud. The translator of his introduction to the Talmud, which Maimonides wrote at the age of 23, was adamant on this point: "Although he utilized the fruits of his time's researches, *every statement of Maimonides is securely grounded and borne from the Torah literature*. It is extremely important to bear this in mind. The Torah is the means by which the Rambam saw and explained everything."[148]

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ery synagogue until not a cinder remains; 2) raze the homes of all Jews; 3) confiscate and destroy their books and the Talmud; 4) forbid rabbis to teach on the threat of execution; 5) revoke all safe-conduct passes on the highways; 6) forbid them to loan money at interest; and 7) require them to work at manual labor. *Luther's Works*, vol. 47, pp. 268–72. For a study of European life for Jews in the sixteenth century, see Selma Stern, *Josel of Rosheim* (Philadelphia: Jewish Publication Society, 1965).

147. Cohen, *Myth of the Judeo-Christian Tradition*, p. xii.

148. Zvi L. Lampel, *Maimonides' Introduction to the Talmud* (New York: Judaica Press, 1975), p. 9.

Horowitz began his detailed, readable, and nearly indispensable study of Jewish law with this assertion: "Though there are in the laws of Moses not a few specific and literal commands which give emphatic expression to the spirit of that legislation, it is the gradual changes against the letter of Scripture which came about in the course of centuries, that offer the most striking manifestation of the true, the humane spirit of Jewish law."[149] But is this really true? Was the "humaneness" of the Jewish legal order truly increased when the rabbis departed from the letter of Old Testament law? I argue that the self-conscious departure on the part of both Christians and Jews from the revealed law of God has decreased the West's humaneness.

The question I am raising in this essay is this: Does the *Code* represent the spirit of the Old Testament? As we shall see, it clearly does not represent the letter of the Old Testament. But were Maimonides and the Talmudic scholars whose conclusions he summarized and classified able to retain and make practical the spirit of the Mosaic law? My answer is simple: *no*. But I must prove my case. To provide evidence of my assertion regarding Jewish law, I have decided to provide a kind of lawyer's brief against Moses Maimonides—specifically, against his views of restitution to gentile victims by Jewish criminals.

1. The Double Standard

Maimonides insisted that biblical law's general requirement that the thief make two-fold restitution to his victim (Ex. 22:7) applies only in the case of Jews who steal from Jews. It does not apply if a Jew steals from a heathen (gentile). Incredibly, it also does not apply in the case of sacrilege: stealing an animal from a Jewish household if the animal has been set aside for sacrifice to God; the thief is exempted from making two-fold, four-fold, or five-fold restitution, "For Scripture says, *And it be stolen from the house of the man* (Ex. 22:6), but not from the house of the sanctuary."[150] This means that it is less of a crime to steal from God than to steal from man—a very strange system of ethics on which to build an explicitly theocentric civilization.

A convicted Jew need not pay double restitution to a gentile, ei-

149. Horowitz, *Spirit of Jewish Law*, pp. 1–2. This reflects a view quite similar to that expressed by Lauterbach in his criticism of Sadduceeism because of its having become "blind slaves of the law without regard for its spirit. It divorced the law from life, in that it made the two absolutely independent of each other." *Jewish Essays*, p. 38.

150. Moses Maimonides, *The Book of Torts*, Book 11 of *The Code of Maimonides*, 14 vols. (New Haven, Connecticut: Yale University Press, 1954), "Laws Concerning Theft," II:II:1, p. 64.

ther: "If one steals from a heathen, or if one steals sacred property, he need pay only its capital value, for Scripture says, *Shall pay double to his neighbor* (Ex. 22:8)—*to his neighbor*, but not to the sanctuary; *to his neighbor*, but not to a heathen."[151]

This is an ethical and judicial system based on a double standard. The Talmud is clear on this point: "Where a suit arises between an Israelite and a heathen, if you can justify the former according to the laws of Israel, justify him and say: 'This is *our* law'; so also if you can justify him by the laws of the heathens justify him and say [to the other party:] 'This is *your* law'; but if this can not be done, we use subterfuges to circumvent him."[152] In short, the Jewish lawyer must do whatever he can to keep his guilty Jewish client from being convicted. (In this sense, Jewish jurisprudence serves as the model for all modern jurisprudence: the lawyer's primary task is supposedly to use the law in order to see his client go free, guilty or not.)

A dual standard of justice applies to lost property:

> R. Bibi b. Giddal said that R. Simeon the Pious stated: The robbery of a heathen is prohibited, though an article lost by him is permissible.... His lost article is permissible, for R. Hama b. Guria said that Rab stated: Whence can we learn that the lost article of a heathen is permissible? Because it says: *And with all lost thing of thy brother's*: it is to your brother that you make restoration, but you need not make restoration to a heathen.[153]

> Come and hear: If one finds therein [Soncino Press editor's footnote: "In a city inhabited by Jews and heathens"] a lost object, then if the majority are Israelites it has to be announced, but if the majority are heathens it has not to be announced.[154]

> WHERE AN OX BELONGING TO AN ISRAELITE HAS GORED AN OX BELONGING TO A CANAANITE, THERE IS NO LIABILITY. WHEREAS WHERE AN OX BELONGING TO A CANAANITE GORES AN OX BELONGING TO AN ISRAELITE... THE COMPENSATION IS TO BE MADE IN FULL."[155]

In response to such judicial standards, gentiles in the late medieval period over-reacted by forcing Jews into urban ghettos that were surrounded by high walls and locked at night. They did not want to live as

151. *Idem*.
152. *Baba Kamma* 113a.
153. *Baba Kamma* 113b.
154. *Baba Mezia* 24a.
155. *Baba Kamma* 37b. Cf. 38a. Reproductions of these passages appear in *Christian News* (Aug. 1, 1988).

geographical neighbors to people who held such a double standard.[156] They chose instead to allow Jews to be governed by their own courts in most matters that involved disputes between Jews. Of course, when it came to Christian rulers (and presumably also private citizens) who defaulted on loans, the Jews may also have occasionally appreciated the walls that protected them from excessive contact with gentiles.[157] (It is also interesting that in the twelfth century, the walled-in Jewish ghetto of Constantinople also had its own wall that separated 2,000 Talmudic Jews from 500 anti-Talmudic, "Torah-only" Karaites.)[158]

Forced social division is inevitably the curse of a double legal standard in a single society. Neither group trusts the other; both groups seek to exploit the other, or at least tolerate those within their midst who do. This is why the Bible says, "One law shall be to him that is homeborn, and unto the stranger that sojourneth among you" (Ex. 12:49). This case law appears in the section on the laws regarding strangers and the Passover; it was given to Israel immediately after the exodus itself. This indicates how emphatically God demands that men observe it: even their oppressors, the Egyptians, are entitled to equal treatment before the law.

2. "For the Sake of the Peace"

The rabbis were not fools, of course. They modified this judicial double standard for practical purposes, namely, "for the sake of the peace." Horowitz explained: "Halakot [law] and customs which discriminated against Gentiles and which might, therefore, appear unjust in the eyes of the world, were not to be enforced or practiced though perhaps 'legally' valid, because it might reflect unfavorably on the Jewish people, its morals and its religion. 'For the Sake of Peace' was in effect an equitable principle which modified the strict law, with regard to treatment of Gentiles."[159] This was a belated rec-

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156. The social and political results of this policy were evil: forced urbanization, the creation of a permanently alienated political element within the towns, and the eventual subsidizing of nineteenth-century Jewish radicalism, which was far more common in urban settings than in rural ones.

157. In 1306, Philip IV of France evicted the Jews, repudiated his debts to them, and confiscated their property. England drove them out in 1290, after having taxed them heavily and soaked up their capital with forced loans that were then repudiated. In 1370, they were driven from the low countries. Herbert Heaton, *Economic History of Europe* (New York: Harper & Row, 1948), p. 184.

158. This was recorded by Benjamin of Tudela in his *Book of Travels* (1168); cited in Johnson, *History of the Jews*, p. 169.

159. Horowitz, *Spirit of Jewish Law*, p. 100

ognition of the need for a unified legal standard in civil justice and economic dealings. He offers several examples, including this one: "The Talmud seemed definitely to countenance the over-reaching of heathens by Jews in business transactions (*Bava Kamma* 113b). But later authorities held otherwise. 'It is forbidden,' says Maimonides, 'to defraud or deceive any person in business—Jew and non-Jew are to be treated alike.... It is wrong to deceive any person in words even without causing him any pecuniary loss (*M. T Sale*, XVIII, i).[160] Centuries later with respect to an error of a Gentile in overpaying eighteen ducats, R. Benjamin b. Mattathiah declared, 'For the sake of sanctifying the Holy Name a Jew should correct and make good the mistake of the Gentile.'"[161]

Maimonides put it this way: "The lost property of a heathen may be kept, for Scripture says, *Lost thing of thy brothers* (Deut. 22:3). Furthermore, if one returns it, he commits a transgression, for he is supporting the wicked of the world. But if one returns it in order to sanctify God's name, thereby causing persons to praise the Israelites and realize that they are honest, he is deemed praiseworthy."[162] It is revealing that he cited Deuteronomy 22:3, which refers to the lost property of one's brother, but he made no mention of Exodus 23:4–5, which explicitly deals with the lost property of enemies: "If thou meet thine enemy's ox or his ass going astray, thou shalt surely bring it back to him again. If thou see the ass of him that hateth thee lying under his burden, and wouldest forbear to help him, thou shalt surely help with him."

Obviously, when the legal system allows a Jew to discriminate ethically and judicially in terms of religion, and when it also repeatedly requires Jews to ignore this principle of judicial dualism, it becomes almost impossible for the individual Jew to know what to do in specific cases. He is to be guided by his conscience, of course, but a conscience informed by which principle, the principle of discrimination or the principle of preserving the peace?

This is the fundamental problem for all casuists: the application of fixed laws to specific circumstances. Horowitz was aware of the problem, at least with respect to biblical law, a problem for which the

160. See Maimonides, *The Book of Acquisition*, Book 12 of *The Code of Maimonides*, 14 vols. (New Haven, Connecticut: Yale University Press, 1951), "Laws Concerning Sales," I:XVIII, pp. 63–64.

161. Horowitz, *Spirit*, p. 101.

162. Maimonides, *Torts*, "Laws Concerning Robbery and Lost Property," III:XI:3, p. 128.

rabbis have offered no solution: "Thus, paradoxical as it may seem the Rabbis believed that it was their right and duty to make changes in the Biblical law if imperatively required, while maintaining, nevertheless, that the commands of the Torah were unchangeable and might not be added to or diminished."[163] This is also true with respect to Talmudic law. The key question is this: Which principle of application is dominant in any given case, preserving the peace or allowing a Jewish thief to escape the restitution penalty specified by the Torah? The individual Jew is left without clear ethical guidelines. The rabbis will decide after the fact whether an act is immoral, illegal, or just good business, but that knowledge is of little help to the Jewish decision-maker at the "moment of truth." The predictability of the law and its sanctions—indispensable to social order and also to freedom[164]—is thereby drastically reduced.

Nowhere is the double standard more visible than in Maimonides' handling of the crime of murder. He stated categorically in Section One of Chapter One of "Laws Concerning Murder and the Preservation of Life" that "If one slays a human being, he transgresses a negative commandment, for Scripture says, *Thou shalt not murder* (Exod. 20:13). If one murders wilfully in the presence of witnesses, he is put to death by the sword, for when Scripture says, *He shall surely be punished* (Exod. 21:20), we have learned from tradition that this means death by the sword."[165] Well and good. But then comes the double standard: "If an Israelite kills a resident alien, he does not suffer capital punishment at the hands of the court, because Scripture says, *And if a man come presumptuously upon his neighbor* (Exod. 21:12). Needless to say, one is not put to death if he kills a heathen."[166] I do not think any additional comment is needed at this point.

L. Escaping Restitution

Horowitz asserted that the spirit of Jewish law has been humane because the rabbis have departed from the letter of Mosaic law. (Implicitly or explicitly, this is the same defense offered by Christian theologians when they also depart from the letter of the Mosaic law without specific New Testament authorizations.) One problem with Horow-

163. Horowitz, *Spirit of Jewish Law*, p. 94.

164. F. A. Hayek, *The Constitution of Liberty* (Chicago: University of Chicago Press, 1960).

165. Maimonides, *Torts*, "Laws Concerning Murder and the Preservation of Life," V:I:1, p. 195.

166. *Ibid.*, V:II:1, p. 201.

itz's argument is that Maimonides' interpretations are frequently opposed to the spirit of biblical justice precisely because he ignored the letter of biblical law.

For example, Maimonides discussed the case of a thief who stole an animal or a vessel, and who then immediately slaughtered the animal or deliberately broke the vessel—perhaps to conceal the evidence of the crime?—and later is convicted of the theft. What if, in the meantime, the market value of the stolen object has doubled? Does the thief pay double restitution based on the value of the item at the time of the theft or based on its market value at the time of the trial? If he has profited from the transaction, Maimonides said, he must pay restitution based on the stolen object's value at the time of the trial. But what if the thief accidentally lost the animal or accidentally broke the vessel? Maimonides stated, though without presenting any justifying argument, that the negligent thief owes restitution only on the value of the object at the time of the theft.[167]

1. Undermining Justice

Such a legal principle would undermine biblical civil justice. First, how is the court to determine whether the loss was accidental? The thief obviously has a financial incentive to lie, since the burden of his repayment will be lighter. Second, what of the victim's added economic loss? Who protects the victim's interests? Why should his loss as a result of the time delay between the theft and the trial not be fully compensated by the thief, irrespective of the latter's quality of stewardship over the stolen goods? What Maimonides should have concluded was that the thief must provide multiple restitution to a victim based on the *replacement cost at the time of his conviction* for the crime. If the animal were still alive, he would be required to return that animal, and the animal would obviously be worth today's market value. Thus, the replacement value for a slaughtered animal is also to be worth today's market value, and so is the equivalent proportional restitution payment. This is obvious, this is fair, and Maimonides ignored it. He departed from both the letter of biblical law and its spirit.

He concluded all this by stating that two-fold restitution is not required from any thief who is convicted of stealing bonds, land, or slaves, "because Scripture has imposed the liability for double payment only on movable things that have an intrinsic value, for it says,

167. ". . . if, however, the animal dies or the vessel is lost, he need pay only double its value at the time of the theft." *Ibid.*, "Laws Concerning Theft," II:I:14, p. 63.

On an ox or an ass or a sheep or a garment (Ex. 22:8)." But aren't slaves movable? Physically, yes, but not legally, he said. "Now slaves are legally regarded the same as land, for Scripture says of them, *And you shall bequeath them to your sons* (Lev. 25:46)...." But aren't bonds as valuable as movable stolen goods? No; "bonds have no intrinsic value."[168]

2. Committing Crimes Rationally

Furthermore, if a person is subject to flogging for a crime involving the theft of money, Maimonides insisted that he need not make any monetary penalty payment whatsoever to the victim, "because one is not subjected to both flogging and paying."[169] Why would a thief be subject to flogging in the first place? Possibly because he had stolen for a second or third time. We would imagine that the victim would receive compensation in the form of a monetary penalty payment, and the civil authorities would also flog the thief as a warning. Not in Maimonides' system. But he did make this clarification: the criminal must become subject to the monetary penalty and the flogging at the same time; if he commits two separate offenses, he can be required to suffer both penalties.[170]

What, then, is the economically rational conclusion for thieves? *Steal money, not goods*, and be sure you commit a trespass at the same time that will involve flogging if you are convicted.[171] Habitual thieves should steal only money, if the automatic added penalty is a flogging.

Along this same line is his insistence that thefts committed on the Sabbath are exempt from the requirement of restitution, since working on the Sabbath was a capital offense in the Old Testament,

168. *Ibid.*, II:II:2, p. 64. Yet he admitted elsewhere that "if one burns a creditor's bonds, he must pay the full debt recorded in the bond—for although the bond is not intrinsically money, he has caused the loss of money...." *Ibid.*, "Laws Concerning Wounding and Damage," IV:VII:9, p. 185.

169. *Ibid.*, "Laws Concerning Theft," II:III:1, p. 67. He made this one exception: injuring someone, who then becomes eligible for compensation: *ibid.*, "Laws Concerning Wounding and Damaging," IV:IV:9, p. 173.

170. In the case of robbery—stealing openly by threatening the victim—he said that the restitution payment is mandatory, so there can be no flogging, because "any prohibition the transgression of which may be repaired by restitution does not entail flogging." *Ibid.*, "Laws Concerning Robbery and Lost Property," III:I:1, p. 90. If we are to accept this explanation at face value, then why did he ever bring up the parallel issue of crimes that require monetary penalties in relation to flogging? Shouldn't the requirement of restitution always eliminate the possibility of flogging? There is an inconsistency here.

171. Maimonides did not say what kind of crime would bring a person under both penalties simultaneously. This makes it difficult to know what he had in mind.

and he insisted that "if one commits a transgression entailing capital punishment and also a monetary penalty, he need not pay even if he has acted through error."[172] But the two crimes must occur at the same time.[173] "If one steals an animal and butchers it on the Sabbath or kills it as a heathen sacrifice, even through error, he need not pay fourfold or fivefold, as we have explained."[174] "If one borrows a cow and then butchers it on the Sabbath in an act of theft, he is exempt even from paying double, because the breach of the Sabbath and the theft are done at the same time, and where there is no payment for theft, there can be no penalty for butchering or selling."[175] Who then protects the innocent victim from doubly perverse thieves, who are Sabbath-breakers, too? The more corrupt the criminal, the more judicially vulnerable becomes the innocent victim in Maimonides' system.

We see this especially in his treatment of the thief who is sold into slavery to compensate his victim. Biblical law requires that a thief be sold into slavery if he does not have enough money or assets to compensate his victim: "...if he have nothing, then he shall be sold for his theft" (Ex. 22:3b). Scripture protects the victim, not the thief. Maimonides said that if the thief steals a second time, and from a different victim, he may be sold into slavery again, as many times as he steals from a new victim, even a hundred times. "But if he steals a second time from the first person, he may not be sold again, rather whatever he has stolen is counted as a debt against him."[176] A truly vicious criminal who repeatedly steals from a truly victimized citizen does not suffer the required biblical penalty, said Maimonides. Once again, the interests of the victim are sacrificed for the benefit of the criminal.

He wrote that a thief who improves a stolen good, such as fattening a stolen animal, needs to make double restitution only of the value of the item at the time of the theft. He gets to keep any of the improvements. If the owner had abandoned hope of ever having his goods returned to him, the thief even gets to keep any resulting productivity, such as the offspring of a stolen female animal. Thus, the longer the anguish of the innocent, and the greater his loss of hope,

172. *Ibid.*, "Laws Concerning Theft," II:III:1, p. 67.
173. *Ibid.*, II:III:1, p. 68.
174. *Ibid.*, II:III:3, p. 68.
175. *Ibid.*,II:III:4, pp. 68–69.
176. *Ibid.*, II:III:15, p. 71.

the more likely the thief will profit from his crime.[177]

There should be no double restitution penalty imposed on those who use false weights and measures, Maimonides insisted. It is unquestionably theft, as he recognized. Why no penalty payment? He never said. "Although one who measures or weighs falsely steals thereby, he need not pay double but need only pay for the deficiency in measure or weight. Nor is flogging inflicted for breach of this prohibition, since there is a liability to pay."[178] Here is another loophole for thieves: *judicially risk-free theft*. If a man steals and is not caught, he keeps what he has stolen; if he gets caught, he is required to give back only what he stole. Worse: it is risk-free for a form of theft which is extremely difficult for the victims to detect, false weights and measures. In short, the more self-conscious the criminal, and the more vulnerable his intended victims, the less the penalty.

The crime of robbery—theft by force[179]—is clearly worse than theft by stealth. The robber steals the object, and he also inflicts fear. True to form, Maimonides exempted the robber from the requirement of making double restitution, which is required from the thief: "If one commits robbery, he must return the very object he robbed, for Scripture says, *He shall restore that which he took by robbery* (Lev. 5:23). If, however, the object is lost or altered, he must pay its value. But he is liable for the repayment of its capital value only, whether he confesses of his own accord or whether witnesses testify that he took it by robbery."[180] Furthermore, "If the owner has abandoned hope of recovery but the property is unchanged, the robber acquires title to any improvement that takes place after hope is abandoned, and he need pay only its value as of the time of the robbery. This rule is on the authority of the Scribes, enacted for the benefit of penitents."[181] If the owner has given up hope of ever recovering it, he forfeits both the earnings the property might have produced for him and any improvements made by the robber.[182] In short, *the worse the crime, the less the penalty; the greater the suffering by the victim, the less the compensation due to him*.

177. *Ibid.*, II:I:11–12, pp. 61–62.

178. *Ibid.*, II:VII:2, p. 80.

179. "Who is deemed a robber? One who takes another's property by force." *Ibid.*, III:I:3, p. 90.

180. *Ibid.*, III:I:5, p. 91.

181. *Ibid.*, III:II:2, p. 94.

182. Maimonides cited the anonymous sages to prove that the victim is entitled to the increased market value of the stolen object, if this increase has not come as a result of improvements made by the robber: *ibid.*, III:II:16, p. 97.

M. Kidnapping

If any crime sends fear into the hearts of parents, it is this one. God's law makes the penalty clear: "And he that stealeth a man, and selleth him, or if he be found in his hand, he shall surely be put to death" (Ex. 21:16). But the rabbis would not tolerate this law, so they created a system of judicial requirements that made it virtually impossible to convict anyone. Horowitz wrote: "The crime consisted of four elements: carrying off, detention, enslavement, and selling, which must occur in the order named."[183] The prisoner must be taken completely from his home. He must be detained on the offender's premises. "If the victim is detained anywhere else, even though he be locked up and completely under the abductor's control, the crime is not made out."[184] He must be made a slave by means of "any service or use however slight which the victim was compelled to render or submit to, e.g. to be leaned on or to be used as a screen against the draft even while he was asleep or unconscious."[185] He must then be sold as a slave, and to strangers rather than kinsmen. He cited *Sanhedrin* 85b. On this basis, none of the sons of Jacob could have been convicted of kidnapping Joseph, for they did not take Joseph from his home, nor did they use him as a slave.

The term "Talmudic reasoning" is attached to logic like that employed by Maimonides—the splitting of hairs in order to make impossible any judicial sanctions against an offender. Maimonides wrote: "If one abducts another and uses him and sells him, but the kidnapped person is still on his own premises and has not been taken onto the premises of the kidnapper, the kidnapper is exempt. If one abducts another and takes him onto his premises and uses him but does not sell him, or sells him before using him, or uses him and sells him to one of the kidnapped person's relatives—for example, if he sells him to his father or his brother—the kidnapper is exempt, for Scripture says, *Stealing any of his brethren . . . and sell him*, implying that he must separate him from his brethren and kinsfolk by the sale. Similarly, if one abducts a person who is asleep, uses him asleep, and sells him while he is still asleep, the kidnapper is exempt."[186]

Horowitz's concluding remarks are appropriate: "That the Rabbis considered the death penalty too severe for this wrong to society

183. Horowitz, *Spirit of Jewish Law*, p. 196.
184. *Ibid.*, p. 197.
185. *Idem.*
186. Maimonides, *Torts*, "Laws Concerning Theft," II:IX:3, p. 86.

and the individual, seems quite plain from the foregoing rules. But they were bound by the express command of Scripture; hence they devised such requirements as made conviction virtually impossible. There is no record, moreover, that a regular court ever convicted a person of Manstealing."[187] Lest this claim be thought unrepresentative because of a presumed lack of data, bear in mind that the Jewish rabbis from all over the world saved records of their court decisions since the tenth century. Something in the range of 3,000 volumes of these records, with at least 300,000 judgments, have been compiled.[188] While these records until recently were unindexed (they have now been put on computer in Israel),[189] and therefore were usable only by highly trained specialists who possessed astounding memories, the basic conclusions are known. Thus, Horowitz's statement is probably representative of the history of Jewish decisions regarding kidnapping: not one conviction.

Michael Guttman made a similar assessment: "The general principle upon which the Mishnah has to be valued juridically is the endeavor to restrict death punishment to a minimum. The Talmud could not flatly annul the death penalty since a Pentateuchal law could not be abrogated; therefore the requirements pertaining to the giving of evidence and the proof of premeditation were made so severe that a death verdict was almost impossible."[190]

One reason for this reticence to impose the penalties established in the Old Testament was that the Jews believed that every Jewish court had to have at least one judge who had been appointed by the laying on of hands (*semikah*) by a preceding judge. Like the rabbi who supposedly could trace his teachers back to Moses, so was the judge. But there was a problem. This laying on of hands could take place only in the Holy Land. "A court not thus qualified," wrote Horowitz, "had no jurisdiction to impose the punishments prescribed in the Torah."[191]

After the Bar Kochba revolt failed in 135, the Romans scattered the Jews throughout the empire; the Diaspora began in earnest. This loss of residence was used as an excuse by the rabbis to abandon the required sanctions of the Old Covenant.

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187. Horowitz, *Spirit*, pp. 197–98.

188. Elon, "Introduction," in Elon (ed.), *Principles of Jewish Law*, col. 13.

189. "Computer Digests the Talmud to Help Rabbis," *New York Times* (Nov. 24, 1984).

190. Michael Guttman, "The Term 'Foreigner' Historically Considered," *Hebrew Union College Annual*, III (1926), p. 17.

191. Horowitz, *Spirit of Jewish Law*, p. 93.

> The Rabbis were compelled, therefore, in order to preserve the Torah and to maintain law and order, to enlarge the authority of Rabbinical tribunals. This they accomplished by emphasizing the distinction between Biblical penalties and Rabbinical penalties. Rabbinical courts after the second century had no authority to impose Biblical punishments since they lacked *semikah*; but as regards penalties created by Rabbinical legislation, the Rabbis had of necessity, the widest powers of enforcement. They instituted, accordingly, a whole series of sanctions and penalties: excommunication, fines, physical punishment, use of the "secular arm" in imitation of the Church, etc."[192]

Thus ended, formally, the Old Covenant. It had ended judicially in God's eyes in A.D. 70, but now there could be no mistaking what had happened. *Judaism officially became rabbinic rather than Mosaic*. To "preserve the Torah," the rabbis decided to abandon it. That Rabbi Akiba, one of the early compilers of the oral law, had joined with Bar Kochba and died in this revolt,[193] was fitting; the defeat of Bar Kochba was to make possible the triumph of the Talmud over the Old Testament and its required sanctions.

Without sanctions, there can be no covenant.[194] Without God's specified sanctions, there can be no covenant under Him, except as a broken covenant. This is the dilemma of Judaism. The specified sanctions in the Old Testament are no longer applicable, Orthodox Jews believe, because Jews are outside the land. The specified sanctions of animal sacrifices are also gone. The temple was destroyed in A.D. 70. Yet without these sanctions—against criminals and against animal representatives—there cannot be Old Covenant religion. There can only be a broken covenant.

N. Mastering a Book

There is no doubt in my mind that opening the Talmud does not really open it. Opening Maimonides' *Code*, however, does begin to get the Talmud's conclusions into the open, though not its various

192. *Idem*. So serious was being outside the land that one rabbi cited in the Talmud taught that those Jews buried outside the land will not be resurrected. "R. Eleazar stated: The dead outside the Land will not be resurrected; for it is said in Scripture, *And I will set glory in the land of the living*, [implying] the dead of the land in which I have my *desire* will be resurrected, but the dead [of the land] in which I have no desire will not be resurrected." *Kethuboth* 111a.

193. Supposedly he died on the very day of the birth of Judah HaNasi, the compiler of the Mishnah: J. H. Hertz, Foreword, *Babylonian Talmud, Baba Kamma* (London: Soncino Press, 1935), p. xv.

194. Sutton, *That You May Prosper*, ch. 4.

modes of reasoning. When Jewish scholars co-operated a generation ago in making available an English-language translation of the *Code*, they performed a service analogous to the translating of the Talmud. But this service, being intellectual in nature, opened the formerly linguistically locked gates. Inquirers today are free to enter the gateway and snoop around at their leisure. They may not do justice to everything they find. Or, from a different critic's perspective, they may do greater justice than some would prefer. But this is the cost of intellectual progress. Debates arise, and they sometimes continue for centuries without resolution. This is especially true of religious debates.

My part-time odyssey through Jewish literature has led me to things that I appreciate (e.g., the exegetical insights of U. Cassuto and S. R. Hirsch) and things that I do not appreciate (e.g., various teachings regarding Jesus and Christians in general that are found in the Talmud).[195] Pentateuch's economic techniques are not easy to decipher at first glance. I am sure that Jewish commentators have had the same sorts of problems that I have encountered. They have come to their share of inaccurate conclusions. Who is to challenge these conclusions? Jews only? Then are Christians' conclusions equally immune from challenges by Jews? The answer is clear, I think. Anyway, it should be. We must all deal with the texts. If God spoke them, as I believe He did, then we must all seek to understand precisely what He said. Sometimes even higher critics can pinpoint a truth. Surely if they can, then those of us who take the texts seriously as the word of God can comment on them, as well as on each other's comments.

In the Preface to a book on the ethics of Judaism by Unitarian scholar R. Travers Herford, John J. Tepfer lamented: "Over the centuries the many-tomed Talmud, and kindred products of the early Rabbinic mind such as the Midrash, have been subjected to keen scrutiny by numerous learned Christians, mainly, however, with an eye to their value for Christian faith and dogma. The aims of these men being largely apologetic, they drew invidious comparisons between the two faiths, pointing up what they considered to be the absurdities of Rabbinic law and lore, and demonstrating the superior spiritual worth of the authoritative writings of the Church."[196] I clearly would choose to be numbered among these unnamed Christian critics.

195. Peter Schäfer, *Jesus in the Talmud* (Princeton, New Jersey: Princeton University Press, 2009)

196. John J. Tepfer, "Preface" (1962) to R. Travers Herford, *The Ethics of the Tal-mud*, p. vii.

The more I read in Maimonides' *Code*, the more I detect a tendency on his part to give the benefit of the doubt to the thief or the cheat, and therefore to sacrifice the interests of the innocent victim. Consider this example: stealing an animal from a fellow Israelite who has set it aside for a priest. "If one steals heave offering from a (lay) Israelite who has designated it (to be given to a priest), he is not obliged to pay double, for the owner's only right in it is the pleasure of giving it to whom he pleases, and such a right has no monetary value."[197] I should think that any self-respecting Jew would hope that Maimonides was not a faithful compiler and summarizer of traditional rabbinic opinion, for the sake of the reputation of the rabbis, but his defenders insist that he was, and there have been few traditional Jewish detractors of Maimonides who have been visible to gentiles.

By departing from the letter of the Mosaic law, time after time, the rabbis abandoned the spirit of Mosaic law as well. This is why Jesus began so many of His public lessons with the phrase, "You have heard it said... but I say unto you." He was waging war with both the spirit and the letter of Talmudic law, for it violates both the spirit and the letter of biblical law.

This is not to say that Talmudic laws are all corrupt or that the *responsa* (post-Talmudic case law decisions) based on the Talmud are all corrupt. The Jews attempted very early to create a unique, distinctly Jewish, systematic body of laws. By viewing their world in terms of law, they involved themselves and their culture in the task of casuistry: applying fixed laws to specific circumstances. They began this process nearly a millennium before the Christians did, and the Christian law codes (Theodosian's, Justinian's) after the sixth century fell into disuse in the West as feudal society steadily replaced Christian Roman rule.

The huge body of materials that their judges had to master required feats of memory that are astounding to gentiles of this day. Few of us can imagine the ability of the contemporary Talmud scholar David Weiss, who memorized 200 pages of the Talmud at age five, and who earned money by answering such questions as this one: "If I put a pin through word X on page Y, what words would it pierce on the pages beneath?"[198] Yet there have been many Jews with David Weiss' training and abilities over the centuries. The production of

197. *Torts*, "Laws Concerning Theft," II:II:5, p. 64.

198. Israel Shenker, "A Life in the Talmud," *New York Times Magazine* (Sept. 11, 1977).

such prodigies has been a Jewish academic specialty for at least two millennia.

Because they had to master "a book," and an immense one, Jewish scholars had to discipline themselves intellectually. They set the example for their followers. Because rabbis were frequently involved in business trades, this led to a unique attribute of Jewish culture. Wrote Paul Johnson: "Rabbinical Judaism is essentially a method whereby ancient laws are adapted to modern and differing conditions by a process of rationalization. The Jews were the first great rationalizers in world history. This had all kinds of consequences as we shall see, but one of its earliest, in a worldly sense, was to turn Jews into methodical, problem-solving businessmen. A great deal of Jewish legal scholarship in the Dark and Middle Ages was devoted to making business dealings fair, honest and efficient."[199] But what if they had concentrated their efforts exclusively on the task of explaining the Old Testament without any of the excess baggage of fables, occultism, and judicial interpretations specifically designed to allow criminals to escape the full consequences of their actions? Think of the commentaries they would have produced! Christians could have learned from them (and they from Christians) the things I am spending my life trying to research from scratch. The modern world would be a very different and far more productive place. But they could not do it and still remain Jews, for Jesus had made their dilemma plain: "For had ye believed Moses, ye would have believed me: for he wrote of me. But if ye believe not his writings, how shall ye believe my words?" (John 5:46–47). The Mishnah and the Talmud are not what we Christians might have hoped for, and what some Christians have mistakenly believed that they are: commentaries on the Old Testament, but with no mention of the Trinity.

Conclusion

If Christians and Jews do not agree about the nature of law and the proper approach to and interpretation of biblical legal texts, even when they officially appeal to the same legal sources, then the Judeo-Christian tradition is a myth. There would have to be a common

199. Johnson, *History*, p. 172. Quite properly, he cited Irving Agus' remarkable two-volume study of medieval *responsa* or legal decisions: *Urban Civilization in Pre-Crusade Europe* (New York: Yeshiva University Press, 1968), a book I stumbled across in the library in the late 1960s, and recommended to R. J. Rushdoony. He used it in his *Institutes of Biblical Law* (Nutley, New Jersey: Craig Press, 1973), p. 788.

legal tradition, yet such a tradition does not exist. Modern Christians and Jews, because they are modern, do not recognize the hypothetical nature of this academic construct; they no longer take law or religion seriously enough, especially law. The two religions are no longer viewed by their adherents as being inherently judicial in nature. Thus, the two religions have changed radically, yet this change has been disguised by the self-conscious triumphant humanism of modern culture. Both the Jews and the Christians have enthusiastically sent their children into tax-financed secular schools, and their common enemies have transformed the worldview of their children. The covenantal heirs no longer recognize the extent of the former division between the Christian and Jewish legal traditions because they no longer are aware of the legal revolution that has captured the West over the last century. This revolution, legal scholar Harold Berman argued, now threatens our freedom as no other revolution ever has: the rise of secular, bureaucratic, administrative law.[200]

Berman made another important observation: law has broken down in the West because religion has been privatized. "The traditional symbols of community in the West, the traditional images and metaphors, have been above all religious and legal. In the twentieth century, however, for the first time, religion has become largely a private affair, while law has become largely a matter of practical expediency. The connection between the religious metaphor and the legal metaphor has been broken. Neither expresses any longer the community's vision of its future and its past; neither commands any longer its passionate loyalty."[201]

If there were a Judeo-Christian tradition, there would be a common legal order. What this essay has shown is that there has not been any common legal order uniting Bible-believing Christians and Talmud-believing Jews, which is why there were Jewish ghettos in medieval European cities and separate Jewish rural communities, especially in Russia. Jews insisted on these separate communities because they insisted on being ruled by their own courts, and Christian rulers gave them their request.[202] Jews recognized clearly that if they subordinated themselves under the civil laws of Christian states they would lose their covenantal autonomy. In the nineteenth century, they

200. Harold J. Berman, *Law and Revolution: The Formation of the Western Legal Tradition* (Cambridge, Massachusetts: Harvard University Press, 1983), pp. 33–41.

201. *Ibid.*, p. vi.

202. Louis Finkelstein, *Jewish Self-Government in the Middle Ages* (Westport, Connecticut: Greenwood, [1924] 1972).

steadily abandoned this view, but only after the gentiles' civil orders ceased being Christian and became secular humanist.

If there were a Judeo-Christian tradition, there would be evidence of a shared legal tradition, especially in the formative years of the Western legal tradition: the eleventh through thirteenth centuries. Berman summarized: "…neither Jewish thought nor Jewish law seems to have had any substantial influence on the legal systems of the West, at least so far as the surviving literature shows."[203] One reason for this, he speculated (I think correctly), is what he calls the casuistry of the Talmud. I would call it the dialecticism: "…the intense casuistry of the Talmud may have helped to make it seem alien to Western legal thought, which stressed the systematization of legal principles."[204]

We needed to examine some of the legal sources of the Jewish legal tradition in order to determine to what extent there has been or can be a Judeo-Christian tradition. Christian scholars have seldom done this in the past, and the result has been a major intellectual gap and therefore major blind spot in the thinking of modern Bible-believing Christians. But blind spots are not perceived by those who suffer from them unless they are shown to the victims. This essay, I trust, has made this blind spot visible.[205]

Because I am a Christian Reconstructionist, I am deeply interested in law, specifically biblical law. I am interested in the effects that biblical law and its specific applications have had on Christian civilization. I believe, as Berman did, that there can be no true social revolution without a change in a particular society's legal order; without such a transformation, a so-called revolution is merely a *coup d'e'tat*. It takes more than one generation to consolidate a revolution, and the primary manifestation of this consolidation is always legal.[206] If it is true, as Berman believed, that we are approaching the end of an era,[207] then it is incumbent on Christians to begin to rethink their covenantal heritage. They must begin to offer an alternative to the

203. Berman, *Law and Revolution*, p. 589.

204. *Idem*.

205. The physical blind spot in each eye exists because of the structure of the eye. Discover it for yourself. Get a piece of blank paper, and put an X in the middle of the paper and a dot about two inches to the left. Close your right eye. Keeping your left eye focused on the X, move the paper slowly toward your eye. At some point, the dot will disappear from view. Your brain will continue to "cover" for your eye's failure by filling the visible gap with the color of the paper. The dot disappears.

206. *Ibid*., p. 20.

207. *Ibid*. p. v.

present collapsing social order, and this alternative must be self-consciously judicial. Christians must become judicial revolutionaries, not simply defenders of the present legal order.[208] If we remain on the deck of this sinking ship, claiming that it is in principle conformable with biblical principles, we shall go down with it.[209] Sticking with the status quo means sure death by drowning.

208. Gary North, *When Justice Is Aborted: Biblical Standards for Non-Violent Resistance* (Ft. Worth, Texas: Dominion Press, 1989).

209. Gary North, *Political Polytheism: The Myth of Pluralism* (Tyler, Texas: Institute for Christian Economics, 1989).

APPENDIX M

VICTIM'S RIGHTS VS. THE MESSIANIC STATE

I begin with a biblical principle: *all crime is primarily an attack on God.* Only secondarily is crime an attack on an earthly victim. The victim represents God judicially. This is why God requires the civil government to defend the victim. In doing so, the civil government defends God. In this appendix, I will defend this view of crime and punishment.

I begin with the doctrine of hierarchy. This includes the doctrine of representation.[1] This is point two of the biblical covenant. The Book of Exodus, the second book in the Pentateuch, is primarily concerned with point two of the covenant, for the Pentateuch is itself structured in terms of the biblical covenant's five-point structure. It is appropriate that questions relating to representation should be the focus of several of the case laws of Exodus.

The covenant's representation principle is built into the creation. We know that the visible creation testifies to the existence of the invisible God. "For the invisible things of him from the creation of the world are clearly seen, being understood by the things that are made, even his eternal power and Godhead; so that they are without excuse" (Rom. 1:20). Men, as creatures, cannot strike at God directly. They must act through intermediaries. Men strike some aspect of God's creation in their attempt to strike at God. Men commit crimes against God-created men and the God-created environment, but always in the creation's capacity as reflecting God. Men are creatures, so they must use the creation as the only available means of any attempted attack on God. As Cornelius Van Til wrote in numerous places, the child must sit on the father's lap in order to slap his face.

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1. Ray R. Sutton, *That You May Prosper: Dominion By Covenant*, 2nd ed. (Tyler, Texas: Institute for Christian Economics, [1987] 1992), pp. 46–47.

A. God Is the Primary Victim

Biblically and covenantally speaking, the earthly victim of a crime is always the secondary victim; *God is always the primary victim*. Ours is a theocentric universe, not anthropocentric. This means, additionally, that the criminal acts in his own interests secondarily; when committing a biblically prohibited act, he acts primarily as Satan's representative, just as Adam did. This judicial principle—the doctrine of covenantal representation—is not intuitively apparent to those who are not trained to think theocentrically and covenantally. We must learn to think theocentrically and representatively (covenantally) when we think about crime and punishment.

Christians and Jews should therefore begin any consideration of the principles of biblical jurisprudence with this fundamental legal principle: *God is always the primary victim of every sin and every crime*. This leads to a crucial conclusion: *the victims of any crime or unlawful attack become the legal representatives of God*. The victim of a crime is authorized by God, the Author of history, to initiate a covenant lawsuit against the suspected criminal. He and he alone is so authorized. While it is legitimate to speak of primary and secondary earthly victims of crime, we must always bear in mind that the primary cosmic victim is always God.

Because of the somewhat intricate nature of my arguments in this chapter, I think it is best if I state my conclusion in advance, so that the reader will be better able to assess the cogency of my argumentation. The conclusion that I have come to after having studied in detail this and other biblical case laws is that the following judicial principle is dominant in the Bible: *if the victim of a crime fails to initiate this covenant lawsuit, then the other covenantal agents of God must honor this decision*—the civil magistrate, the church officer, and the head of a household. They are not authorized in this instance to step in and prosecute in God's name as God-ordained covenantal judges. They are unquestionably judges.[2] But because of the principle of victim's rights, they are prohibited from prosecuting if the victim decides to forego bringing the lawsuit, *unless they can show that they themselves have become victims because of the original victim's failure to prosecute*.

In biblical jurisprudence, *it is the victim whose rights must always be upheld*, not simply because he was harmed by the criminal, but also because *he served as God's surrogate when he became the victim*. God is

2. Gary North, *When Justice Is Aborted: Biblical Standards for Non-Violent Resistance* (Ft. Worth, Texas: Dominion Press, 1989), ch. 2.

the primary victim, and His rights must be upheld first and foremost. His specified judicial sanctions must be enforced by His designated covenantal representatives. His case laws provide mankind with the proper guidelines of how His honor is to be upheld in various cases.

There is another Bible-sanctioned office to consider, the office of *witness*. The witness is authorized to bring relevant information to one of these covenantal judges, so that the judge can initiate the covenant lawsuit against the suspected violator.[3] The witness plays a very important role in the prosecution of God's covenant lawsuits. Without at least two witnesses, it is illegal to execute anyone (Deut. 17:6). Also, the affirming witnesses in a capital lawsuit must be the first people to cast stones (Deut. 17:7).

B. The Biblical Hierarchical Structure

Adam was allowed to do anything he wanted in the garden, except eat from the forbidden tree. There was a specific sanction attached to that crime, a capital sanction. This reveals a fundamental biblical judicial principle: *anything is permitted unless it is explicitly prohibited by law, or prohibited by an extension of a case law's principle*. This principle places the individual under public law, but it also relies on self-government as the primary policing device. It creates the bottom-up appeals court character of biblical society. Men are judicially free to act however they please unless society, through its various covenantal courts, has been authorized by God's Bible-revealed law to restrict certain specified kinds of behavior.

The bottom-up appeals court structure of the biblical hierarchy is in opposition to the principle of top-down bureaucratic control. Under the latter hierarchical system, in theory nothing is permitted except what has been commanded. The decision-making private individual is tightly restricted; the centralized state is expanded. This is the governing principle of all socialist economic planning. It assumes the omniscience and omnicompetence of distant central planners.[4]

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3. The hostility of siblings against "tattle tales" in a family is easily explainable: youthful law-breakers resent judgment. They resent witnesses whose action brings the dreaded sanctions. But what about parents? Parents who side with the critics of "tattle tales" are thereby attempting to escape their God-given role as judges. They are saying, in principle, "We don't want to know about it. We don't want to serve as judges, despite our position as God's designated representative agents in this family."

4. Gary North, *Marx's Religion of Revolution: Regeneration Through Chaos* (Tyler, Texas: Institute for Christian Economics, [1968] 1989), Appendix A: "Socialist Economic Calculation."

A free society needs predictable law.[5] The maximum sanction for any crime must be specified in written law or at least in traditional legal precedent. A criminal should know in advance the maximum negative consequences of conviction. He is under law, but so are his judges. The state as well as the criminal are restrained under biblical law. The state is placed under tight judicial restraints, and first and foremost among these restraints is the requirement that crimes and their respective sanctions be announced in advance. There must be no *ex post facto* statutes or sanctions. This reduces the arbitrary authority of judges to apply sanctions or increase sanctions beyond what is specified in the law code. Judges sometimes possess the authority to reduce the specified sanctions, as this chapter argues, but never to increase them. This restriction drastically reduces the growth of arbitrary civil power. By adhering to this biblical principle of responsible freedom under specified law, the West made possible the development of modern capitalism and its accompanying high per capita wealth.

The limits on the biblical state's ability to impose arbitrary sanctions are derived from three case-law principles. First, the God-given authority of the victim to refuse to prosecute, and also his authority to reduce the applicable sanctions upon conviction of the criminal, restricts the power of the civil magistrate. Second, the maximum sanction allowed by existing law keeps the state under restraint. Third, the *pleonasm of execution*—"dying, he shall die"—inhibits the authority of the judges to subsidize outrageous crimes by imposing reduced sanctions in specific cases: whenever the state has lawfully initiated the covenant lawsuit because there is no earthly victim who could initiate it. To deny any of these principles is to promote the advent of the messianic state.

To describe the working of these three case-law principles, we need to begin with the maximum civil sanction: execution. Because public execution is the maximum civil sanction allowed by God's law, it has the most critics.

C. Capital Punishment: Yesterday and Today

One of the complaints against the continuing legitimacy of biblical law is that the death penalty is too rigorous to be applied as a sanction against most of the capital crimes specified by the Old Testament.

5. F. A. Hayek, *The Constitution of Liberty* (Chicago: University of Chicago Press, 1960).

Therefore, conclude the Mosaic law's critics, execution is no longer a valid civil sanction today, except in the case of murder.[6] This line of argumentation leads to the peculiar conclusion that, in the Old Covenant era, covenantally faithful people were expected by God to be a lot more rigorous about prosecuting criminals, and were therefore expected to be more willing to see God's civil sanctions enforced. This rigorous "Old Testament attitude" toward criminals is no longer valid, it is said, because of the coming of the New Covenant. But if Christians are to be less rigorous regarding crime and its appropriate civil sanctions, then God also must have adopted a more lenient attitude, which is supposedly reflected in His New Covenant law. A major problem with this line of reasoning is the fact that God's New Covenant standards seem to be more rigorous, e.g., the prohibition of easy divorce (Matt. 19:7–9).[7] With greater maturity and greater revelation, Christians are supposed to be less lenient about sin. After all, more is expected from him to whom more has been given (Luke 12:47–48).[8] The New Testament gives Christians greater revelation and assigns us far more responsibility than was the case in the Old Covenant era. Christ's resurrection is behind us. The Holy Spirit has come.

It could be argued, of course, that because greater mercy has been shown to us, we should extend greater mercy. With respect to the judicial principle of victim's rights, I quite agree. The victim should be more merciful, so long as his mercy does not subsidize further evil. He must judge the character of the criminal. But this does not answer the question of designated capital crimes. Is it the state's responsibility to adopt the principle of reduced New Covenant sanctions, despite the explicit revelation of the Old Covenant case laws? Should the state adopt a judicial principle different from that which prevailed in the Old Covenant? I answer *no*. Furthermore, I also answer that civil judges in Mosaic Israel had the God-given authority to reduce the severity of the specified sanctions under certain circumstances. I develop the evidence for this conclusion in this chapter.

Critics of capital punishment also argue that righteous and sensitive jury members today are unwilling to hand down "guilty" verdicts against offenders in many cases, because the death penalty is much too harsh. If the death penalty is kept on the statute books, critics

6. For example, see John Murray, *Principles of Conduct* (Grand Rapids, Michigan: Eerdmans, 1957), p. 118.

7. Section F: "Divorce by Covenantal Death."

8. Gary North, *Treasure and Dominion: An Economic Commentary on Luke*, 3rd ed. (Dallas, Georgia: Point Five Press, [2001] 2011), ch. 28.

argue, serious criminal behavior is therefore indirectly subsidized by victims' unwillingness to prosecute and juries' unwillingness to convict. Thus, conclude the critics, we should ignore the Old Testament's capital sanction in all but the case of premeditated murder. Some Christian critics would even abandon capital punishment in this instance, following the lead of secular humanist criminologists and jurists.

I devote much of this appendix to a detailed consideration of the key phrase, "shall surely be put to death." It requires a lengthy excursion in order to deal with some things not intuitively obvious from the text. I begin my discussion by considering the theological basis of all prosecutions by any court, the covenant lawsuit.

D. The Covenant Lawsuit

Adam and Eve had to serve as witnesses and judges in the garden. There was no escape from these two offices. The serpent had forced their hand. They had heard Satan's temptation, namely, that they could be as God if they disobeyed God (Gen. 3:5). They had become witnesses. They could not escape from their knowledge of the serpent's words. He had spoken in their presence.[9] They could stand with God and God's law by obeying God's word concerning Himself, the forbidden fruit, and the promised sentence of execution, or they could stand with Satan and his word concerning God, the forbidden fruit, and the promised execution. But when called upon by God to testify in His court, they would be required to testify, either against themselves if they stood with Satan or against Satan if they stood with God.[10] They both sought to escape self-incrimination. Adam blamed Eve, and Eve blamed the serpent. Still, there was no available judicial escape. Their fig leaves testified against them. They knew they were guilty, and their wardrobes testified to their sense of guilt.

They also had to serve as judges. They could issue a condemnation

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9. This assumes that Adam was at Eve's side when the serpent spoke. If he was not, then only Eve heard him speak. She should then have gone to Adam for confirmation, and he would have had to ask the serpent to repeat his claim. As I argue in my study of the incident, in order for Satan to gain the biblically specified pair of witnesses against God, they both had to act against God's law. I think that Adam was next to Eve when the serpent spoke. Adam let her act in his name. He allowed her to test the serpent's claim.

10. This is the theological foundation of the idea of the subpoena. The state has a legitimate right to compel the appearance of an individual in court, as well as compel his truthful testimony. This right is denied by some libertarians. Cf. Murray N. Rothbard, *For a New Liberty: The Libertarian Manifesto*, rev. ed.

of God by eating the forbidden fruit, or they could issue a condemnation of Satan, either by eating of the tree of life, or by eating from any tree except the forbidden one, or by not eating anything at all. But they could not avoid serving as judges. They had to *decide*. They had to *act*. They had to *render judgment*.[11]

The two offices, witness and judge, were inherent in their position as God's authorized representatives on earth (Gen. 1:26).[12] Because of Satan's rebellion and his temptation of them, they were forced to decide: *Against whom would they bring the required covenant lawsuit, God or Satan*? They brought it against God. They served as Satan's agents. They implicitly claimed to be the victims of God's discriminatory restrictions against them, for God had denied them access to the forbidden fruit, and He had obviously lied to them concerning His power to enforce His will. They must have regarded His promised sanctions as a lie. Why else would anyone commit automatic suicide for a bite of forbidden fruit? They brought their covenant lawsuit against God *in absentia* by partaking of the forbidden fruit in the presence of Satan, thereby indulging in a satanic sacrament, an unholy communion service. They ate a ritual meal in the presence of the prince of demons. This is what Paul warned against: eating at the table of demons (I Cor. 10:21).

From the day that the serpent tempted Adam and Eve by testifying falsely concerning God's revealed word, there has been a designated victim of all criminal behavior: God. Satan needed to recruit human accomplices in his war against God. He needed two witnesses, the required number to prosecute anyone successfully for a capital crime (Deut. 17:6). But the moment that Adam and Eve brought their false testimony into God's court, they became subject to the penalty for perjury: suffering the same punishment to which the falsely accused victim was subject (Deut. 19:16–19).[13] If their testimony had been true, then God must have lied about who is truly sovereign over the universe. He would have given false testimony against the true god, man. God would have been guilty of calling man to worship a false god, which is a capital offense (Deut. 13:6–9). He would also have been guilty of false prophesying, another capital offense (Deut. 13:1–5). Adam and Eve had sought to indict God for a capital offense; they

11. Gary North, *Sovereignty and Dominion: An Economic Commentary on Genesis* (Dallas, Georgia: Point Five Press, [1987] 2012), Appendix E: "Witnesses and Judges."

12. *Ibid.*, ch. 3.

13. Gary North, *Inheritance and Dominion: An Economic Commentary on Deuteronomy*, 2nd ed. (Dallas, Georgia: Point Five Press, [1999] 2012), ch. 45.

were subsequently executed by God. So are all their heirs who persist in refusing to renounce the judicial accusations of their parents, who represented them in God's court.

In His grace, God offered them a judicial covering, a temporary stay of execution, which was symbolized by the animal skins (Gen. 3:21). This symbolic covering required the slaying of an animal. God offered them time on earth to repent. He offered them a way to make restitution to Him: the blood sacrifice of specified animals. He did this because He looked forward in time to the death of His Son on the cross, the only possible restitution payment large enough to cover the sin of Adam and his heirs.

His Son's representative death is the basis of all of God's gifts to mankind in history. *Grace is an unearned gift*, meaning a gift earned by Christ at Calvary and given by God to all men in history. Christ's restitution payment serves as the basis of *common grace* to covenant-breakers in history and *special grace* to covenant-keepers in history and eternity.[14] The words of Christ on the cross are the basis of common grace in history: "Then said Jesus, Father, forgive them; for they know not what they do" (Luke 23:34). Ignorance of the law is no excuse, but Jesus Christ grants grace to the ignorant anyway. He paid God's price; He suffered God's sanctions; so, He has the right to grant temporal (common) forgiveness on no terms at all, and eternal (special) forgiveness on His own terms.

E. Criminal and Victim as Covenantal Representatives

Adam and Eve served as Satan's representatives when they had communion with him, thereby bringing a covenant lawsuit against God. Had they refused to take Satan's advice, they would have served as God's representatives against Satan. The point is, *representation is an inescapable concept*. The issue is never this one: "To serve or not to serve as the covenantal representative of a supernatural being." The question is rather: "Which supernatural being shall I represent covenantally?" There is no escape from this decision and its consequences.

What does the word *covenant* mean biblically? God has created a legal relationship to man, one which is based on a legal *bond*. There is no personal relationship between God and man apart from this legal bond. The covenant structure has five parts:

14. Gary North, *Dominion and Common Grace: The Biblical Basis of Progress* (Tyler, Texas: Institute for Christian Economics, 1987).

1. Transcendence yet presence of God
2. Hierarchy (representative authority)
3. Ethics (law)
4. Oath (judgment and sanctions)
5. Succession (inheritance and continuity)

By combining the first letters, we get an acronym: THEOS, the Greek word for God. God's three covenantal institutions are governed in terms of this five-point structure. These institutions of God-authorized government are: church, state, and family. *The covenant structure is an inescapable concept*.[15]

When a man sins, he thereby brings a covenantal lawsuit against God. His action violates all five points of the covenant. First, he denies that God is who He says He is: the Law-giver and eternal Judge. Second, he declares himself no longer under God's hierarchical authority. Third, he says that God's ethical standards do not apply to him. Fourth, he denies that God can or will apply His sanctions, either in history or eternity. Fifth, he asserts that covenant-breakers shall inherit the earth.

1. Hierarchy

Let us consider in greater detail point two: hierarchy. By rebelling against God, he thereby places himself under the hierarchical authority of Satan. *He becomes Satan's representative*. This is why Christ spoke to Peter so harshly when Peter denied that Christ would soon go to His death: "Get thee behind me, Satan" (Matt. 16:23a). Men's actions are always representative. This is why God judges between the saved and lost, between sheep and goats, on judgment day (Matt. 25:32). The eternal life-and-death question on that great and terrible day will be: *Which sovereign did you represent and serve on earth, God or Satan*?

It is clear that Adam and Eve sinned directly against God. More specifically, they sinned against the God who walked in the garden (Gen. 3:8). This is the character of all sin: a denial of God's word, His authority, His ethical character, His sanctions, and His ability to disinherit covenant-breakers. *Sin is a representative denial of God's covenant*: His transcendence, His authority, His law, His judgment, and His inheritance. Man sins against God covenantally. He would steal the very throne of God if he could. "For thou hast said in thine heart, I will ascend into heaven, I will exalt my throne above the stars

15. Sutton, *That You May Prosper, op. cit*.

of God: I will sit also upon the mount of the congregation, in the sides of the north: I will ascend above the heights of the clouds; I will be like the most High" (Isa. 14:13–14). What will be the result of this attempted theft of God's glory? "Yet thou shalt be brought down to hell, to the sides of the pit" (Isa. 14:15).

2. The Trial of Jesus

Jesus Christ was the judicial victim of a corrupt Jewish court, false witnesses, and a corrupt civil government. The Jewish leaders, in their capacity as the God-ordained representatives of the Jewish people, had brought a false covenant lawsuit against Jesus.[16] They had convicted Him of a capital crime: claiming to be God. There were two ways that He could be exonerated: if there were no witnesses who could prove that He had made the claim, or if proof were presented that His claim was true. They had hired false witnesses and had not proved that His claim was false.

The Roman state acted as the sanction-imposing agent of the Jewish people. The people had chosen Barabbas as the recipient of their mercy rather than Christ (Matt. 27:21). The Jewish leaders had been faithful representatives of the people's will. Jesus would die on the cross.

Ultimately, there is no escape from a decision either for or against Jesus Christ, Israel's only true messiah and mankind's only true savior. The old truth of Christian evangelism is correct: "No decision is still a decision." Either men vote against Jesus Christ as covenantal representatives of the Jews and Rome, or else they vote with Jesus Christ as their covenantal representative against the Jews and Rome. Either the decision of the Jews and Pontius Pilate represents their views, both intellectually and judicially, or else God's affirmation of His Son represents them. Men bring a covenant lawsuit either against Jesus, as the Jews did, or against those who crucified Him, as Peter did (Acts 3). There is no escape. *Men must bring a covenant lawsuit in this life*. They must designate both the criminal and the victim at the drama on Calvary. Their designation will reflect their covenant status as either covenant-keepers or covenant-breakers.

F. Divorce by Covenantal Death

I have argued that *sin is always a representative act*. It is the act of bringing a covenantal lawsuit against God. A crime is a special kind of sin:

16. Part 2, *Decalogue and Dominion*, pp. xxiii-xxiv.

a publicly verifiable act against God's civil law. It is an act of defiance against God's civil covenant with either an individual or some aspect of the environment as God's representative agent.

We can see the principle of victim's rights more clearly by focusing on marital divorce as a covenant lawsuit. Jesus set forth this law regarding divorce: "It hath been said, Whosoever shall put away his wife, let him give her a writing of divorcement: But I say unto you, That whosoever shall put away his wife, saving for the cause of fornication, causeth her to commit adultery: and whosoever shall marry her that is divorced committeth adultery" (Matt. 5:31–32).

In this chapter, I do not want to cover all the theological ground that Ray Sutton covers in his book, *Second Chance: Biblical Blueprints for Divorce and Remarriage*.[17] I agree with his argument that divorce is above all a covenantal act, and that any crime listed in the Old Testament as a capital offense constitutes legal grounds for divorce today. Jesus did not abrogate the Old Testament case laws that governed divorce and remarriage, except to make them more rigorous. The principle of New Testament divorce is the same as it was in the Old Testament: *divorce by covenantal execution*. There may also be physical execution involved, but in both Old and New Testament law, *covenantal execution is primary*; eternal execution in God's heavenly court is of greater consequence than physical execution by the civil government's court. Biblically speaking, physical execution is simply the God-ordained legal consequence of specific forms of covenantal execution. This has also been argued by R. J. Rushdoony[18] and Greg Bahnsen[19] with respect to divorce. I do not try to prove this argument in this chapter; I begin with the assumption that it is biblically correct. Those who disagree should consult these other sources.

This line of reasoning from the Old Testament's case laws raises an important practical and legal issue. When a spouse commits an act that produces covenantal death—judicial death in the eyes of God—and when this is proven in one or more of God's authorized earthly courts, ecclesiastical and civil, either by the injured spouse or by other witnesses, the covenantally dead person becomes subject to covenantal sanctions. In a systematically biblical civil government, the maximum penalty attached to many of these crimes would

17. Ft. Worth, Texas: Dominion Press, 1987.

18. R. J. Rushdoony, *The Institutes of Biblical Law* (Nutley, New Jersey: Craig Press, 1973), pp. 401–15.

19. Greg L. Bahnsen, *Theonomy in Christian Ethics*, 2nd ed. (Phillipsburg, New Jersey: Presbyterian & Reformed, 1984), pp. 105–16.

be death. This would lead to divorce by physical execution because there has *already been* divorce by covenantal execution.

G. John 8

The standard response from those who reject such a "harsh" (i.e., God-established) penalty is an appeal to John 8, the case of the woman who was taken in adultery. I believe that this passage was in the original Bible text. Biblical "higher critics" and many orthodox Christians deny this, because most of the older Greek manuscripts do not include John 7:53–8:11.[20] Most modern translations of the Bible provide a marginal note to this effect. But if this passage is not in the Bible, then surely the Old Testament's capital sanction against adultery has not been altered. If John 8 is not in the biblical canon, then there is no other passage that supports the case for an alteration of the capital sanction against adulterers except Joseph's forgiving Mary, which we will examine in detail later.[21]

1. Adultery

John 8 deals with a woman who was discovered in the very act of adultery (v. 4). Her accusers (witnesses) brought her before Jesus, challenging Him to render judgment. This was clearly an attempted trap on their part, for Jesus was neither a civil nor an ecclesiastical official. The woman's accusers were also judicially corrupt. They were law-breaking deceivers, for they were being highly selective: *her partner was not brought before Jesus*. (Might he have been one of their ecclesiastical or professional associates?)

Jesus challenged them: "He that is without sin among you, let him first cast a stone at her" (v. 7b). Then He stooped down and wrote something in the dirt (v. 8)—the only instance recorded in the New Testament of His writing anything. (Might He have written the names of women who were well known—biblically speaking—by the woman's accusers?) We do not know what He wrote. We do know that her accusers immediately decided to leave. Discretion was the better part of valor, in their view. They did not continue to press charges against her. Thus, *without the presence of two witnesses, she could not be legally*

20. See Appendix P: "The Hoax of Higher Criticism."

21. The loss of this supposed defense of a New Testament alteration in the adultery sanction would be a bitter pill to swallow for neo-evangelicals, far too many of whom are prone to accept the hoax of higher criticism, and virtually all of whom spend their intellectual careers seeking exegetical ways around the Old Testament case laws and their sanctions.

convicted of a capital crime, according to Old Covenant law (Deut. 17:6). The witnesses had to cast the first stones (Deut. 17:7), but they all had departed. So, Jesus asked her an obviously rhetorical question: "Woman, where are those thine accusers? Hath no man condemned thee? She said, No man, Lord. And Jesus said unto her, Neither do I condemn thee: go, and sin no more" (vv. 10b–11).

Jesus knew she was guilty as initially accused. He told her to go and sin no more, making clear to her that He knew she was guilty. But adultery is a civil matter. *Without witnesses, she could not be lawfully convicted*. She acknowledged Him as Lord in her own words; He warned her not to do this thing again.

There are millions of short-sighted, instinctively law-breaking and covenant-denying Christians who argue that this incident proves that adultery is no longer a capital crime. They invariably point to Jesus' words, "He that is without sin among you, let him first cast a stone at her." They challenge those who affirm the law: "You see, we [meaning *you*] are not to judge anyone unless we [meaning *you*] have no sin." This interpretation of Christ's words is utter lunacy. Its implications are preposterous. If pressed, these "he who is without sin" interpreters will admit that the New Testament does allow the state to enforce penalties against criminals (Rom. 13:1–7).[22] But then their whole argument collapses. He who is sinful *must* cast the first stone, for all people have sinned and come short of the glory of God (Rom. 3:23). If their argument is taken seriously, then John 8 prohibits all capital punishment, and probably all punishment by anyone, any time. If true, this principle of interpretation would make all covenantal sanctions impossible to enforce: family, church, and state. It would mean the end of all human government. It cannot possibly mean this.

In the Old Testament, God established the death penalty for various crimes. Were Old Covenant judges and witnesses without sin? Obviously not. So, what did Jesus really mean?

2. This Particular Sin

The most obvious explanation is that He meant "He that is without *this particular* sin, let him cast the first stone." Then He started writing something in the dirt. The witnesses immediately departed. The biblical judicial principle is this: those who have committed a particular crime, but who have not been tried and convicted by a

22. Gary North, *Cooperation and Dominion: An Economic Commentary on Romans*, 2nd ed. (Dallas, Georgia: Point Five Press, [2000] 2012), ch. 11.

lawful court, or who have not privately offered to make restitution, and who have therefore not been forgiven by the victim, are not fit to serve as witnesses or judges of those who are accused of having committed the same crime. This is a reasonable interpretation, and a reasonable view of justice. It does not necessitate the scrapping of all civil law, all capital sanctions, and the sanction of death for men who commit adultery with other men's wives.

When Jesus told her to go and sin no more, did He really expect her to be able to avoid all sin for the rest of her life? Of course not. But what He did expect her to be able to do was to avoid the sin of adultery. He did not have *sin in general* in mind in this passage when He used the word *sin*, but rather the *particular sin of adultery*. Thus, it is totally misleading for people to use this passage as a proof text that Jesus established a new civil penalty, or even no penalty at all, for the civil crime of adultery. He did not abandon the Mosaic law in John 8. On the contrary, He followed the Mosaic law's procedural requirements to the letter. *She was publicly innocent in terms of the procedural requirements of the Mosaic law.* Thus, He did not execute His historical wrath upon her in His capacity as perfect humanity. Only the witnesses were allowed to do that, and they had departed. He would deal with her later as God, the perfect Witness, on judgment day in His court; until then, she was granted time to repent and reform her ways. So are all the rest of us.

Obvious, isn't it? Yet for several generations, pietists and antinomians (those who reject biblical law) have persuaded Christians that John 8 represents some remarkable break with the Old Testament. Christians who hate God's law also hate the New Testament, so they do whatever they can to distort it and misinterpret it, even when their misinterpretations lead to obviously preposterous conclusions. They do not worry about preposterous conclusions; they worry instead about a sovereign God who threatens individuals and society with judgments in history for sin. They are in principle adulterers themselves, and they are looking for an escape from God's authorized civil sanctions against adultery, should they someday fall into this sin. They are looking for loopholes—civil, ecclesiastical, and psychological.

3. Witnesses as Unauthorized Prosecutors

There is another aspect of this incident that must be considered. Jesus dealt directly with the sins of the witnesses. He did not focus on questions of legal procedure. He did not point out that they should

have gone immediately to a civil court. He did not ask them rhetorically, "Who made me a judge over you?" He did not remind them that the other guilty party was missing. It is clear that His main concern was not with the procedural details of the incident; He preferred instead to deal positively with the sinful condition of the accused woman. She was the focus of His concern, not her accusers. He acted to remove them from His presence, so that He might restore her to moral and judicial wholeness. This was His tactic in all of His public confrontations with His accusers. He did this with Israel in 70 A.D. He removed Israel from His presence, so that He might restore the gentiles to moral and judicial wholeness. (When He has accomplished this, He will then redeem Israel: Romans 11.)[23]

He could also have asked these two questions: "Where is the victim? Why is the victim not here to press charges?" More to the point, He could have asked: "By what authority have you, the witnesses, substituted your judgment for the victim's? Who made you the authorized prosecutors of this covenant lawsuit? On whose behalf are you acting?" He did not ask these questions, not because they were irrelevant to the situation, but because they were secondary to His main concern: dealing positively with the sin of the woman.

Did the Mosaic law give to witnesses an independent authority to prosecute the covenant lawsuit as agents solely of the state? If so, then the state has the right to prosecute despite the decision of the victim not to prosecute. This would clearly compromise the judicial principle of victim's rights. I am arguing in this appendix that *the state possesses no independent authority to prosecute if the victim voluntarily decides not to prosecute*, an argument based heavily on Joseph's decision as a just man to put Mary away privately. (See Section K: "The Victim's Decision.") The victim's decision is final until God intervenes directly—sickness, calamity, death, or at His Second Coming—to bring His own covenant lawsuit. Thus, the witnesses in John 8 were violating yet another principle of the Mosaic law. The whole incident was one of utter lawlessness and rebellion, which is the characteristic feature of every challenge to the God-given authority of Jesus Christ.

H. Extending Mercy

As the cosmic lawgiver, God has the right to set the penalties for crimes. Biblical law provides every society with God's specified pen-

23. North, *Cooperation and Dominion*, ch. 7.

alties. What is crucial to understand is that the biblical principle of *God as the victim who names the penalty* leads to a derivative principle: the earthly victim of the prohibited act is also allowed to name the penalty to be imposed on the criminal, so long as it does not exceed the limits specified by the Bible.

There is one exception to this rule, argue some biblical scholars: if the specified penalty is death, and if a particular phrase appears in the text, then the state must enforce whenever it unilaterally prosecutes and convicts the criminal. The phrase is: "surely he shall die" or "dying, he shall die." This phrase, which biblical scholars call a *pleonasm*, initially appears to be an identifying mark of infractions of God's law that inescapably require the death penalty. I argue that this is an incorrect interpretation of the use of the pleonasm, but I could be wrong. This is why we need to explore the usage of this pleonasm in the section below, "Dying, He Shall Die." First, however, we must consider the principle of victim's rights.

We know that sanctions against non-capital crimes are to be imposed by the civil government at the discretion of the victim. He can refuse to accept any restitution payment or a reduced restitution payment. He can lawfully cancel the debt owed to him (Matt. 18:23–35).[24] I argue that this principle of forgiveness also applies to capital crimes in which there is an identifiable human victim who is capable of bringing a covenant civil lawsuit against the criminal. We see this judicial principle in action at the crucifixion. Jesus requested that the Father not immediately destroy His executioners. "Then said Jesus, Father, forgive them; for they know not what they do" (Luke 23:34a). He extended additional time to them. This was His unmerited favor or gift to them, just as God had extended life to Adam, Eve, and Cain. As both the primary victim (God) and the secondary victim (perfect man), Jesus Christ possessed the right to extend temporal mercy to His enemies, even for this capital crime. His divinity authorized this extension of mercy. So did His perfect humanity, for He was the victim of a rigged trial. I argue that as the victim, He could lawfully extend mercy only before He physically died.

The question is: Are victims allowed to extend mercy in cases where the state appears to be required by the presence of the pleonasm, "surely he shall die," to execute the convicted criminal? We know that in his capacity as a lawful prosecutor of God's covenant lawsuit, the earthly victim does possess the right—the legal authorization from

24. North, *Priorities and Dominion*, ch. 37.

God—to extend mercy to a convicted criminal for any crime other than a capital crime. He can lawfully forgive the restitution payment owed to him. Why not also in the case of a capital crime?

I. The State as God's Prosecutor

In order to answer this question, we need to understand that the victim is not the only one who can lawfully initiate a covenant lawsuit against a suspected criminal. *God has more than one covenantal agent in society*. Witnesses can bring incriminating information to an authorized agent of covenantal government, and this agent can lawfully institute covenant lawsuit proceedings against any criminal, *but only if there is no earthly victim who is capable of bringing charges*.[25] If there is an identifiable earthly victim, then he alone becomes the exclusive agent who is authorized to initiate a covenant lawsuit against the suspected criminal. This restriction on state's authority to initiate a covenant lawsuit is an implication of the doctrine of victim's rights. The victim possesses the right to forgive. The state is not authorized to ignore or supersede this right.

The interests of the community are upheld by identifying the criminal or member of the criminal class. Remember, God is the primary victim of crime; He has authorized *representatives* to defend the integrity of His name. If a community refuses to do this—if church, state, and family governments break down—God threatens to bring His negative sanctions through other agencies: war, pestilence, and famine (Deut. 28:15–68). This is why an unsolved murder in a field required a public blood sacrifice by the nearest city's civil magistrates, not the priests (Deut. 21:1–9).[26]

1. A Legal Claim

Who acts as God's authorized agent in the bringing of a covenantal civil lawsuit? The victim, the witnesses, or those who are authorized agents of the civil government. If the initiator of the lawsuit is the victim, he is not acting primarily on his own behalf, but as an agent of God because of his position as the victimized intermediary between the criminal and God, the ultimate victim. He is acting sec-

25. For a list of capital crimes and an identification of those cases in which the state is authorized to initiate the covenant lawsuit, see the subhead at the end of this chapter: "Addendum: Cases to Which the Pleonasm Is Attached."

26. Clearly, the Epistle to the Hebrews has annulled this practice in the New Covenant era.

ondarily on his own behalf, for any restitution payment will go to him. Similarly, witnesses who bring evidence to the state for use in prosecuting the covenant lawsuit are acting as representative agents of God through the civil government. They do not act on their own behalf, for they have *no legal claim* on the resources of the person who is being charged with the crime, should he be convicted. Witnesses are not victims. They are acting in the name of God as authorized and oath-bound agents of the state when they testify in a civil court. *Where there is no direct legal claim, there is no direct covenantal relationship*. Thus, witnesses are acting as indirect agents of God as participants in the civil commonwealth.

Because crimes are always crimes against God, the state has a law-enforcement role to play, for the state possesses God's authorized monopoly of the sword: the imposition of physical sanctions. The state in turn implicitly delegates the office of witness to those who view a crime or who have information relevant to the state's prosecution of a covenant lawsuit. (This is the judicial basis of what in English common law is known as "citizen's arrest," although it is seldom invoked today.) This is why the state can lawfully compel honest testimony from a witness: the witness is under the authority of the state. It is in fact unlawful to withhold evidence of a crime when subpoenaed. While the state may offer a reward for the capture and conviction of a criminal as a way to privatize prosecution expenses, this is at the discretion of the state. The witness who seeks an announced reward has a claim on the state, not on the criminal.

The most important example in history of a reward-seeking witness is Judas Iscariot, who collected 30 pieces of silver from the Jewish court to witness against Jesus Christ. He later returned the money, not because it is inherently wrong to accept money as an honest witness, but because he knew he had been a false witness in a rigged, dishonest trial. The Jewish leaders self-righteously replied, "What is that to us?" (Matt. 27:4b). They felt no sense of guilt, so why should he? They also recognized the tainted nature of the money, which was the price of blood, and as true Pharisees, they refused to accept his repayment (Matt. 27:6). Committing murder by rigging a court was irrelevant in their view, a means to a legitimate end; getting paid for false witness-bearing, however, was seen by them as a sin. This is the essence of Pharisaism, the classic historical example of Pharisaism in action. They were happy to serve as the most corrupt court in man's history, but they judiciously refused to accept money for their efforts.

(What is not recognized by most Christian commentators is that the testimony of a witness in a Jewish court was invalidated, at least by the law of the Pharisees, if he had received payment for testifying.)[27]

What is my conclusion? Only this: *witnesses have no legal claim on the criminal*. The authorized agents of God in the prosecution of a covenant lawsuit are officers of one of the three courts—church, state, and family—and the victim of the crime.

2. The Right of Refusal

If the authorized biblical penalty is economic restitution, then the victim whose covenant lawsuit is successfully prosecuted by the civil government has the right to refuse payment, or the right to take less than what biblical law authorizes. Like the creditor who has the right to take less in repayment, or to extend the debtor more time to repay, or even to forgive the debt, so is the victim of a criminal who has been convicted in a court of law. The nineteenth-century Jewish commentator S. R. Hirsch remarked that the victim of a theft "can renounce altogether his right to repayment by the sale of the malefactor, and content himself with a signed promise to pay as soon as the circumstances of the thief improve."[28] He was correct.

What if the victim refuses to prosecute? I see no warrant in most cases for the state then to prosecute. The court can lawfully serve as the agent of the victim in certain exceptional cases. Two examples would be victims who are orphaned minors or mental incompetents. Nevertheless, under normal circumstances, a decision not to prosecute by a victim who is legally competent to initiate a covenant lawsuit is a binding decision. He thereby loses his legal claim on any future restitution payments by the convicted criminal. If he is willing to suffer this loss, then the state must honor his or her decision. The individual, not the state, is the victim; the principle of victim's rights is binding on the state. Only if the criminal act in some way also injured the state or society could the state then prosecute, but only on its own behalf.[29]

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27. *Bekhoroth* 4:6, in *The Mishnah*, ed. Herbert Danby (New York: Oxford University Press, [1933] 1987), p. 534.

28. Samson Raphael Hirsch, *The Pentateuch Translated and Explained*, translated by Isaac Levy, 5 vols., *Exodus,* 3rd ed. (London: Honig & Sons, 1967), p. 295: at Exodus 21:6.

29. Treason that also involves theft would be an example. The victim of the theft might not prosecute, but the state could, for treason is an act of attempted murder against the society.

The case of Judah and Tamar is representative. Judah refused to prosecute Tamar for whoredom when she brought tangible evidence that he was the guilty party and that she had merely been claiming her legal right to the levirate marriage (Gen. 38:26). On the other hand, the victim also escapes the threat of a counter-lawsuit from the accused if the latter should be declared innocent by the court. Again, the case of Judah and Tamar is representative. Judah did not want to be convicted of false witness-bearing, for he had committed the crime with her, and he was therefore not authorized to bring accusations against her in his own name. As the head of both his family and the local civil government, he dropped all charges.

3. Civil Sanctions

Old Testament law specifies that criminals are subject to several types of civil sanctions: corporal punishment—lashings, but with no more than 40 lashes (Deut. 25:3) and the slicing of a woman's hand in one instance (Deut. 25:12)[30]—economic restitution, banishment, and the death penalty.

The punishment of lashing is curious. No crime in the Bible is specifically said to require lashing. The language of the King James Version indicates an exception to this rule: the required scourging of a bondmaid who is betrothed to one man and who then commits fornication with another man (Lev. 19:20).

However, the Hebrew word translated as "scourge" does not necessarily mean physical scourging; it is better translated as "punishment," or even "inquiry." Nevertheless, the lack of any reference to specific crimes with which this physical sanction is associated does not mean that no public crime is subject to lashing, or else there would be no prohibition against imposing more than 40 lashes. This is a sanction to be imposed at the discretion of the judges in cases where there is *no identifiable victim who has suffered either economic loss or physical or verbal abuse*. Presumably, this sanction is appropriate for such acts as public nudity by adults, prostitution, public drunkenness, repeated disturbances of the peace, and public acts prohibited by God, but for which no identifiable victim can be found. The victim of such "victimless crimes"—God—is entitled to restitution: lashes.

30. The language of the King James makes it appear that the woman's hand is to be cut off. This is incorrect: it is permanently injured, but not cut off: James B. Jordan, *The Law of the Covenant: An Exposition of Exodus 21–23* (Tyler, Texas: Institute for Christian Economics, 1984), pp. 118–19.

Eternal punishment is the model: God is repaid through the suffering of the criminal.

In the Old Testament era, if the restitution payment to the victim was larger than the criminal or his kinsman-redeemer could afford to pay, the criminal was sold into slavery. The purchase price went to the victim. This was the only way that a Hebrew could become an involuntary lifetime slave in Israel, and even in this instance, it was lifetime slavery only if he could not earn enough to meet the restitution payment or if his kinsman-redeemer refused to pay. Non-criminal Hebrew debt slaves were to be released in the seventh, "sabbatical" year (Deut. 15); voluntary jubilee year slaves were to be released in the year of jubilee (Lev. 25:39–41).[31] The criminal became a slave to another person because he had been a slave to sin—specifically, he had committed a criminal act that had seriously damaged someone else's property or body.

4. The Death Penalty

Some crimes are so great that God authorizes the death penalty. This produces the criminal's immediate deliverance into God's court. This in turn leads to his subsequent delivery into permanent slavery in hell and the lake of fire unless he repents prior to his physical execution by the civil government. This removal of temporal life is restitution to God for a criminal's major transgression of God's covenant laws. *The death penalty points clearly to God's position as the primary victim*. It also points to His status as eternal Judge.

In cases of murder, the state becomes the victim's delegated representative before God. The deceased obviously cannot initiate the covenant lawsuit. The state therefore initiates it on behalf of both the deceased and God. No restitution payment is possible to the deceased; thus, God must judge the criminal directly in His court. The state is required to deliver the criminal's soul immediately into the hands of God, who is the primary victim and also the legal representative of the deceased victim. The state must not allow a murderer to escape immediate entry into God's court—physical execution—by the payment of a fine: "Moreover ye shall take no satisfaction for the life of a murderer, which is guilty of death: but he shall be surely put to death" (Num. 35:31).

Christ's resurrection is the basis of man's escape from God's imme-

31. Gary North, *Boundaries and Dominion: An Economic Commentary on Leviticus*, 2nd ed. (Dallas, Georgia: Point Five Press, [1994] 2012), ch. 29.

diate and direct imposition of the death penalty, both the first death (physical death) and the eternal second death (Rev. 20:14). Because Jesus Christ rose from the dead, His previous grant of temporary forgiveness to Rome and Israel received God's sanction. It was also on the basis of this resurrection that God had granted a stay of execution to Adam and Eve. But judgment eventually comes in history: Adam and Eve died, and Israel and Rome fell. The question then arises: Does the resurrection of Jesus Christ also serve as the basis of a man's legitimate escape from the death penalty from a civil court? If so, in which cases and on what judicial basis?

J. "Dying, He Must Die"

We need to deal with a problem of interpretation that confronts us over and over in Old Testament case laws. It is a phrase that occurs in many passages.[32] A person convicted of a specified crime "shall surely be put to death." As mentioned earlier, the Hebrew phrase is what scholars call a pleonasm: "dying, he shall surely die." It is emphatic language. We find it in Exodus 21:12: "He that smiteth a man, so that he die, shall be surely put to death." James Jordan commented in 1984: "The emphasis means that the death penalty cannot be set aside by any payment of money."[33] But because of a series of problems in interpretation, he subsequently changed his mind about the meaning of this pleonasm.[34]

1. What Is the Problem?

Why should the interpretation of this pleonasm of execution be such a problem? Because the same phrase appears in the case of crimes that we normally would not think would involve automatic capital punishment. These include crimes that have no immediate human victims: sabbath-breaking (Ex. 31:14–15) and bestiality (Ex. 22:19; Lev. 20:15–16). These also include crimes in which no one dies: assaulting parents physically (Ex. 21:15) or verbally (Ex. 21:17), adultery that involves another man's wife (Lev. 20:10), blasphemy against God (Lev. 24:16), and wizardry and witchcraft (Lev. 20:27). One crime to which this pleonasm is attached is often regarded by modern societies as a capital crime: kidnapping (Ex. 21:16).[35]

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32. These verses are displayed under the subhead at the end of this chapter: "Addendum: Cases to Which the Pleonasm Is Attached."

33. Jordan, *Law of the Covenant*, p. 96n.

34. They are not the same objections that I raise in this chapter.

35. Chapter 34.

To survey the nature of the exegetical problem, let us consider in greater detail the case of adultery that involves a man with another man's wife: "And the man that committeth adultery with another man's wife, even he that committeth adultery with his neighbour's wife, the adulterer and the adulteress shall surely be put to death" (Lev. 20:10). The pleonasm of execution appears here: "shall surely be put to death." Capital punishment for both of the adulterers can legitimately be imposed at the insistence of the victim, the woman's husband. Why? *Because the government of the covenantal family was broken by adultery*. The injured party, meaning the head of the household, is the lawful covenantal representative of God. He is authorized to bring charges against the adulterers as the injured party and also as the head of the family unit. Because the Bible specifies adultery as a civil crime, he also brings this lawsuit in civil court.

The victimized husband can lawfully file the covenant lawsuit in up to three covenantal courts: family, church, and state. A covenant lawsuit is first presented by the victimized husband to the suspected partner, and then (at the discretion of the victimized husband) it is presented in the appropriate court or courts. The institutional church has a legitimate role to play if either of the marriage partners is a member. It pronounces the sentence of covenantal death against the offending party. Thus, adultery can sometimes affect all three covenantal institutions. The victim declares that the covenantal bond of marriage has been broken, and that the adulterers have now come under God's wrath. If the suspected adulterous male partner is married, his wife can also file appropriate lawsuits against her husband. Biblical law makes it clear, however, that *the husband of the adulterous wife has primary authority to specify the penalty*. It is his covenantal household office as the head of the family that has been attacked by the adulterers. If he decides on the death penalty for his wife, as we shall see, the criminal consort cannot escape her fate. As the officer of his family's government, the victimized husband specifies the penalty; the wife of the adulterer cannot stay the hand of the civil magistrate.

Two questions arise. Can the husband legally grant mercy to the wife if she is convicted, that is, can he specify a lesser punishment? Furthermore, if he can, and if he does this, must he show equal mercy to the convicted man?

2. No Respect for Persons

The example of Jesus on the cross indicates that the victim can lawfully spare the criminal. He asked His Father to forgive them, meaning Jews and Romans (Luke 23:34). He spared both of the "adulterers," Israel and her consort, Rome. Israel again and again in Old Testament history committed spiritual adultery with foreign gods and nations, yet God always spared the nation until A.D. 70.[36] The Book of Hosea centers on this theme of the husband's forgiveness of an adulterous wife. Romans 11 indicates that genetic Israel will someday be re-grafted into the church through mass conversion,[37] so God has still withheld the death penalty from Israel as a covenantal people (though not necessarily as the modern political unit that we call the state of Israel).

What is the problem here? The pleonasm appears in Leviticus 20:10, "dying, they shall die." If the language of inescapable death is accepted at face value, then the husband of the adulteress cannot lawfully request a reduced penalty, such as the forfeiture of her dowry to him, rather than insist on her execution. But is he so restricted? God spared Israel time after time. It would seem reasonable that the injured husband might prefer a lesser penalty, just as God did with Israel. Maybe he still loves her. Maybe this is her first transgression. He feels deeply injured, but not enough to have her executed. Perhaps she is a good mother. Perhaps he wants to keep her as his wife. Perhaps not. What if he wants a divorce? This would be granted by the state. He could also require her to transfer her dowry to him.

By showing mercy to his wife, he must also show mercy to her consort. In the case of adultery involving another man's wife, the two adulterers must receive the same negative sanction. The judges are not permitted to show partiality to persons in rendering official judgment. The victimized husband who decides to prosecute is acting as a judge, for if the adulterers are convicted, he specifies the penalty. If he wants total vengeance against the man, he must also demand the same penalty for his wife. If he shows leniency to her, he must show the same leniency to him. Why? Because, in their capacity as God-ordained judges, men are not to show partiality, or as the Bible

36. David Chilton, *The Days of Vengeance: An Exposition of the Book of Revelation* (Ft. Worth: Dominion Press, 1987).

37. This postmillennial position has been defended by such Calvinist commentators on Romans 11 as Charles Hodge, Robert Haldane, and John Murray. The Larger Catechism of the Westminster Confession of Faith also teaches it: Answer 191.

says, "respect of persons" (Deut. 1:17; 16:19; II Sam. 14:14; Acts 10:34). When Joseph decided as a just man to put Mary away privately, he necessarily also decided not to seek civil justice against any suspected consort.

The Bible does not directly discuss the question of leniency by the victim. The pleonasm "dying, they shall die" is attached to this crime of adultery (Lev. 20:10). Nevertheless, I am arguing that the victim can specify a lesser penalty for the adulterers. If I am correct, then in such cases, the criminals do not "surely die" at the hands of the court. But if they are not automatically executed upon conviction, then what does the presence of the pleonasm mean? Why is it found in some biblical texts specifying capital punishment, but not in all of them? The pleonasm is there for emphasis, the lexicographers say.[38] Then what exactly does it emphasize? Not the absolute necessity of the death penalty in every case in which it appears, if I am correct in my reasoning. It does not apply in cases where the victim shows leniency. The victim decides.

3. The Victimized Wife

The Old Testament specifies the death penalty for wives who commit adultery. It does not specify the death penalty for a husband who commits adultery. Is this an oversight? Or does this indicate that God does respect persons, leaving victimized wives more vulnerable than victimized husbands? Does the Mosaic law in fact show respect for persons, discriminating against victimized wives?

The answer is found in the nature of the lawsuit. The victimized husband brings the lawsuit in his capacity as head of his household. The family is one of God's three covenantal governments. It is marked by a covenantal oath. Thus, the death penalty as the maximum for an adulterous wife places the decision in the hands of a covenant head. It is not that the Bible discriminates against victimized wives. It simply places the primary authority for prosecuting the covenant lawsuit in the hands of the covenantal head of the household.

If the adulterous wife could be executed at the discretion of the wife of her adulterous consort, then the primary authority to impose the penalty would be removed from the head of the household and transferred to the subordinate member of another household. The victimized husband who had decided to keep his wife would lose her

38. *Genesius' Hebrew Grammar* (Oxford, [1910] 1974), sect. 113n, p. 342; cited by Jordan, *The Death Penalty in the Mosaic Law* (Tyler, Texas: Biblical Horizons, 1988), p. 9.

if the wife of her consort prosecuted, saw her husband convicted, and asked for the death penalty. Because the court is not allowed to discriminate, it would also have to execute the adulterous wife. Thus, the adulterous wife's husband would lose control over the sanction.

The victimized wife can lawfully sue for divorce. The judges are authorized to grant this. Even if the husband of the adulterous wife does not insist on a divorce, the victimized wife is allowed to gain legal separation. Why, if there must be equality of negative sanctions placed on both adulterers? *Because the judges' announcement of the divorce is not the imposition of a negative sanction; it is simply a legal announcement of a broken marriage*. The marriage was covenantally broken by her husband's act of adultery; the wife is simply declaring her formal acceptance of her new legal status as an unmarried woman. She asks the court to make this declaration public. Biblical law always protects the innocent party. She is not compelled to re-adopt her husband back into the marriage. But she cannot lawfully insist on physical execution of her adulterous husband. The wife of an adulterous husband has only secondary rights as a victim because in this two-party sin, she is the secondary earthly victim. She is not the head of her household. She cannot lawfully seek the execution of the victimized husband's wife by insisting on the execution of her husband.

The Bible is silent regarding the execution of an adulterous husband who commits adultery with an unmarried woman. It is clear, however, that his wife is the primary earthly victim. The wife, as the primary earthly victim, then gains the legal authority to prosecute the two adulterers to the limit of the law. She can require the execution of both partners if they are convicted of adultery by a civil court.

If I am correct about this, then we now know why there is no civil sanction against prostitution specified in the Old Testament, except for the required execution of the daughter of a priest who becomes a prostitute. "And the daughter of any priest, if she profane herself by playing the whore, she profaneth her father: she shall be burnt with fire" (Lev. 21:9). If the victimized wife can have her convicted husband executed for having committed adultery with a prostitute, then the prostitute is required to share his fate. Thus, there is no need for an explicit civil sanction against prostitution. The victimized wife decides. The threat of the capital sanction would tend to confine prostitution to unmarried persons. It would therefore reduce prostitution's assault on marriage.

K. The Victim's Decision

What would it take to get a victim to accept a reduced penalty? The criminal would make a public confession of guilt and repentance, and then offer to pay restitution to the victim. This might work. Then again, it might not. *The key to the criminal's escape from death is the decision of the victim.* The victim cannot lawfully demand a penalty greater than the one specified in the case law, but he can accept something less.

In a later essay, James Jordan took another look at the pleonasm, "surely he shall die."[39] He cited Numbers 35:30–31: "Whoso killeth any person, the murderer shall be put to death by the mouth of witnesses: but one witness shall not testify against any person to cause him to die. Moreover ye shall take no satisfaction for the life of a murderer, which is guilty of death: but he shall be surely put to death." The law specifically says that there can be no substitute payment. The question then arises: Which is more authoritative, the pleonasm's language or the automatic penalty attached to murder? Is murder unique? Is it only in murder cases that the state must invariably impose the death penalty? Or is the death penalty the inescapable consequence of the pleonasm? Does the presence of the pleonasm indicate the idea of "accept no substitutes" wherever it occurs, or is it merely emphasis? If merely emphasis, what exactly does it emphasize?

If adultery always requires the death penalty (Lev. 20:10), Jordan asked, then why did Joseph decide to put Mary away quietly rather than prosecuting her (Matt. 1:19)? My answer: *victim's rights*. The primary earthly victim always has the legal right not to prosecute. This was Joseph's decision. The civil government was not to intervene, nor was the priestly government. Similarly, the decision to forgive was also Christ's decision at the cross, although He had earlier warned the Jewish leaders that He would eventually bring judgment on them (Luke 21), which He did in A.D. 70.

Joseph forgave Mary. This was clearly a decision made under the terms of Old Covenant law. The New Covenant had not yet been established. Thus, when the text identifies Joseph as a just man, its frame of reference is the Old Covenant law. *Joseph did not violate any principle of the Mosaic law when he showed mercy to Mary and refused to prosecute*. He chose to put her away quietly in order to avoid having to bring a civil covenant lawsuit against her. In his capacity as the

39. Jordan, *Death Penalty*, p. 9.

betrothed husband, Joseph decided to break off the betrothal. Only if Mary's family had protested—unlikely, given the apparent circumstances of her pregnancy and the capital sanction involved (Deut. 22:20–21)—would he have been required to pursue his accusation in a civil or ecclesiastical court in order to defend his decision to break the betrothal.

The first question is this: If the victim does decide to prosecute, and the person is convicted, can the victim then specify a lesser penalty? I think the answer is yes. I offer this explanation: the principle of victim's rights still applies, but in the case of murder, the victim cannot volunteer to accept a reduced penalty; thus, the state must impose the maximum penalty. This leads me to a general principle: *When the state becomes the prosecuting agent of case laws where this pleonasm occurs, it must enforce the death penalty on conviction*. There are no exceptions.

The second question is this: If the victim decides not to prosecute, can any other court intervene and prosecute in God's name? The case of Joseph and Mary indicates that Joseph's decision would have been authoritative and final. Her pregnancy would have been visible to all, yet if he had chosen not to prosecute, she could remain free of concern about any other court bringing charges against her. Had she actually been an adulteress, and had her consort been married, then the victimized wife could bring charges against them, but she could gain only a divorce: the court's declaration of a broken marriage. She could not require civil penalties against Mary, and therefore also not against her husband. Joseph, not the victimized wife, was the primary earthly victim and therefore the one who possessed the option of freeing his betrothed wife from any civil penalties.

L. What Does the Pleonasm Emphasize?

The pleonasm identifies *crimes that are the highest on God's list of abominations*. The normal penalty for these crimes is death; anything less than this that the victim specifies is a manifestation of great mercy. By upholding the principle of victim's rights, biblical law also creates incentives for criminals to deal less harshly with victims during the actual crime. If the victim is not brutalized, he may decide to show leniency if the criminal is later convicted. This protects the victim. *Biblical law is designed to protect the victim*.

1. Judicial Discretion

Must civil judges impose the *maximum penalty* allowed by biblical law when the state is the victim, or when by law the state is God's designated agent to protect the community by upholding God's rights and enforcing His sanctions? Not always. The principle of victim's rights governs the imposition of civil sanctions. Judges have the God-given authority to impose a reduced penalty according to circumstances. The only exceptions to this rule are those cases in which the pleonasm occurs; the judges cannot reduce the sanctions in such cases. This is the meaning of the pleonasm: *the elimination of judicial discretion in imposing sanctions when the state initiates the lawsuit*.

Consider two alternative lines of reasoning. First, if we argue that the judges must impose the *maximum* penalty in *all* cases that specify the death penalty, irrespective of the presence of the pleonasm, then the emphasis aspect of the pleonasm disappears judicially. If all capital crimes require the death penalty, of what purpose is the pleonasm? This would indicate that the pleonasm has some function other than judicial emphasis. I cannot imagine what this other function might be. The presence of the pleonasm must indicate *the legitimacy of judicial discretion in cases where the pleonasm is missing*. By requiring judges to impose the maximum penalty in all cases, judicial discretion disappears. The judicial principle of victim's rights would therefore disappear.

Second, if we argue that the judges can in *all* cases legitimately impose a *lesser* penalty, then the emphasis aspect of the pleonasm also disappears judicially. Cases that are governed by the pleonasm would then become indistinguishable from those that are not. The pleonasm would lose its force.

My conclusion is this: if the pleonasm of execution is understood to have any judicial effect in distinguishing capital cases, and if the principle of victim's rights is also to be honored in all cases, then the pleonasm should be interpreted as *eliminating judicial discretion in applying sanctions in all cases in which prosecution has been lawfully initiated by the civil government*. The judges must not reduce the sanction of execution in any case in which (1) the state lawfully initiates the lawsuit, and (2) the sanction is marked by the pleonasm.

Thus, the pleonasm applies *only* to a unique set of capital crimes: where there is no identifiable human or institutional victim who could specify a reduced sanction. The victim is God alone. The state therefore is authorized to initiate the covenant lawsuit. *There is no*

earthly victim who has the authority to reduce the sanction. The community through the civil government is called upon to execute the convicted criminal. In short, in the so-called "victimless crimes" in which the pleonasm of execution applies, civil judges have no choice in deciding on the appropriate sanction. The sanction is always execution. "*Dying, he shall die" binds the judges in capital crimes where the state acts as the covenant lawsuit's prosecutor without the presence of an intermediary or representative human victim*.

The pleonasm is not a denial of the principle of victim's rights, because God, as the primary cosmic victim, has specified the appropriate sanction. This sanction must be imposed by the state in the absence of any secondary victim—a victim who is always authorized to speak in God's name. In the absence of such a representative, the pleonasm takes effect. The pleonasm must therefore *not* be understood as a limitation on the judicial principle of victim's rights. It limits the discretion of civil judges in those cases where there is no identifiable earthly victim, but it does not limit the discretion of the victim. Biblical law allows the victim, as God's representative, to reduce the penalty.

2. Rabbinic Law

Rabbinic law also recognizes the legitimacy of the victim's option of reducing or forgiving a criminal, as S. R. Hirsch's previous comments indicate, but not in capital crimes. While he did not refer to the pleonasm, Hirsch summarized the principle of Jewish law with respect to capital crimes. "The whole idea of the right to grant clemency or mercy was entirely absent in the Jewish Code of Law. Justice and judgment is [sic] the perogative [sic] of God not Man. When the very precisely defined Law of God,—giving Man no scope for his own judgment or arbitrary discretion—ordains death for a criminal, the carrying out of this sentence is not an act of harshness to be commuted for any consideration whatsoever, it is itself the most considerate atonement, atonement for the community, atonement for the land, atonement for the criminal. . . ."[40]

40. Hirsch, *Exodus*, p. 306: at Exodus 21:14. Hirsch immediately abandoned this rigorous judicial principle in his discussion of kidnapping. The Talmud sets up so many extra stipulations regarding the definition of kidnapping that it is virtually impossible to execute a kidnapper under Jewish law. Hirsch said that the kidnapper is to be executed only "if he has made the man feel that he is being treated as an object, a thing" (p. 306). This sounds more like Immanuel Kant than the God of the Bible. Jewish lawyer and Talmudic scholar George Horowitz commented on the Talmudic view of

The Christian cannot legitimately speak of atonement through a criminal's execution, but he can and should speak of delivering the criminal directly into God's court, thereby placing him under God's sanctions rather than placing the community under God's sanctions for its unwillingness to obey God's law. The community that allows a criminal convicted of a capital crime to live is like a community that offers sanctuary to someone who is supposed to be tried in God's court. The community is required by God to extradite him. It cannot legitimately offer the evil-doer sanctuary. The text of Exodus 21:14 is clear: "... thou shalt take him from mine altar, that he may die." If a criminal is not to be granted sanctuary from a human civil court at the very altar of God, then surely a human civil court cannot legitimately grant him sanctuary by refusing to extradite him to God's heavenly court by executing him.

M. Noah's Covenant and Execution

Noah's covenant is rarely mentioned by New Testament scholars, for it was a recapitulation of the dominion covenant of Genesis 1:26–28). He and his sons were told to exercise dominion (Gen. 9:1–3). This means that the dominion covenant was not limited to the pre-Fall world. There is continuity in the dominion covenant. It extends into history. It has not been annulled. But what of the death penalty? That was part of God's covenant with Noah.

1. House and Ice

Dispensational authors H. Wayne House and Thomas Ice presented a weak case for their speculations regarding the pre-New Covenant legal order as it applied to the nations. They insisted that "Nowhere in the nations is capital punishment obligatorily extended beyond the penalty for taking human life...."[41] They asserted, though did not prove, that *none* of the Mosaic law's sanctions ever applied directly or even was intended in principle to apply to the nations, except the capital sanction for murder. This unique sanction is binding

kidnapping: "That the Rabbis considered the death penalty too severe for this wrong to society and the individual, seems quite plain from the foregoing rules. But they were bound by the express command of Scripture; hence they devised such requirements as made conviction virtually impossible. There is no record, moreover, that a regular court ever convicted a person of Manstealing." Horowitz, *The Spirit of Jewish Law* (New York: Central Book Co., [1953] 1963), pp. 197–98.

41. H. Wayne House and Thomas Ice, *Dominion Theology: Blessing or Curse?* (Portland, Oregon: Multnomah Press, 1988), p. 90.

on all men always, they argued, so its authority came from Noah to Moses; it in no way went from Moses to the nations.

This was a clever attempt to escape the suggestion that in the New Covenant era, Christians have a responsibility to pressure civil governments to impose specific sanctions against specific crimes on the basis of biblical revelation. Such a view of "Noahic biblical law," if correct, would allow Christians to avoid personal responsibility in civil affairs, because they could not speak authoritatively in the name of the Lord when it comes to specifying civil crimes or penalties. The price of such a theological position regarding biblical law is, predictably, the cultural, political, and judicial irrelevance of Christianity. This is why dispensationalism is in principle culturally retreatist and culturally irrelevant, and why no dispensationalist has published a book on Christian social ethics during the so-called "Church Age."

House and Ice went on to say that "in Israel this penalty [execution] was exacted for various crimes. . . ."[42] If they meant merely that in Israel, the maximum sanction of execution could be required by the victim in several capital crimes, then they were correct. If they meant that in those cases where the state lawfully prosecuted in God's name as His designated representative, and where the pleonasm "dying, he shall surely die" was attached to the biblical sanction, then they were also correct. If this is all they meant, however, then they had not said anything very significant. They did not show that God restricted these judicial principles to Old Covenant Israel.

The judicial principle of a *maximum allowable sanction for any given crime* was also in principle God's requirement for the nations. Without this God-imposed judicial restriction, the state can lawfully become all-powerful, messianic, and therefore demonic. There will always be sanctions imposed by civil government. The only question is: Whose law establishes the specified judicial limits of state-imposed sanctions, God's or self-proclaimed autonomous man's?

To answer, as House and Ice did, that it depends upon when and where you live in God's world, is to abandon the concept of universal biblical ethics and therefore also to abandon the principle of universally restricted civil governments. Any attempted distinction between the Old Covenant nations and Mosaic Israel that is based on a theory of differing judicial sanctions for the same civil crimes is misguided. Civil sanctions are always specified by God because *God always wants limits on the state and always wants to see victims protected*. In other words,

42. *Idem*.

He always wants judicial limits on the pretensions of autonomous man. God killed nations under the Old Covenant, just as He kills New Covenant nations, because they failed to apply His civil sanctions in history. If this was not the message that Jonah brought to Nineveh, what was?

The principle of *victim-imposed sanctions* is also God's requirement for all nations in this New Covenant era, now that the death, resurrection, and ascension of Jesus Christ, plus the sending of the Holy Spirit and the creation of the church, have extended *God's now-resurrected law-order* to the nations. The New Covenant is truly new; its Bible-specified laws and sanctions have been *universalized definitively in history* by the earthly ministry of Jesus Christ. The resurrection is behind us. Surely the sanctions of God's law for the nations are no less binding today than before Christ arose from the dead and incorporated His church! Yet House and Ice insisted that the Mosaic sanctions are even less binding, for the Mosaic law does not even bind national Israel any longer, and so the law has no visible geographical example and testimony, as it had in the Old Covenant era (Deut. 4:5–8).[43]

House and Ice did their dispensational best to create a false dichotomy between the God-required social laws of nations and the Mosaic social laws of Israel. They also try to create a dichotomy between New Covenant social laws and the Mosaic social laws. They want to place all Christians under the penal sanctions of the Noahic covenant (as the Calvinist ethicist John Murray sought to do before them),[44] both in the Old Covenant era and in the New Covenant era.[45]

2. Noah's Covenant: Low Content

Why this preference by modern conservative theologians for Noah's covenant? Because in Noah's covenant *only one civil infraction* is specified: murder; and *only one penal sanction*: execution (Gen. 9:5). This absence of judicial specifics allows the civil government to specify as criminal whatever behavior it disapproves of, and also allows

43. North, *Inheritance and Dominion*, ch. 8.

44. Murray wrote: "It is conceivable that the progress of revelation would remove the necessity for the penal sanction [in the case of murder]. This is the case with the death penalty for adultery. And the same holds true for many other penal sanctions of the Mosaic economy. Does the same principle apply to the death penalty for murder?" John Murray, *Principles of Conduct*, p. 118. He goes on to argue that the sanction of execution is still valid because "murder is the capital sin." *Idem*.

45. "The Noahic covenant is perpetual. It serves as a basis of God's relationship and the standards imposed upon the nations." House and Ice, *op. cit.*, p. 127.

it to impose whatever sanctions it wants to, without any mandatory reference to any other biblical law or sanction. This political perspective is basically an application of pre-Darwinian humanism's social contract or social compact theory of the state, pioneered by Thomas Hobbes in *Leviathan* (1651) and developed by John Locke (1690) and Rousseau (1762). This older viewpoint was originally a secularized version of, and reaction against, the Puritans' biblical covenant theory of civil government.[46] It imputes primary sovereignty to the people rather than to God and His revealed law.[47]

What is judiciously not discussed by the defenders of the "Noahic covenant theory of the state" is that *the pre-Darwin social contract theory relied completely on the concept of natural law, and in Locke's case, natural rights*. This epistemologically naive view of civil law has been refuted from two sides: by Darwinism's view of the evolving universe and by Van Til's presuppositional apologetic. Without the doctrine of natural law or some version of natural rights theory to govern their theory of the state, *defenders of the "Noahic covenant" theory have implicitly granted judicially unlimited power to the modern state*, no matter how much they protest against such a development. They may be political conservatives personally; it makes no difference. Their personal political preferences become just that: personal preferences. Their personal political preferences are self-consciously and explicitly unconnected with any biblical-theological system of social ethics and political theory.[48]

Such a view of Noah's low-content covenant grants enormous authority to self-proclaimed autonomous man and his representative, the messianic state. The power-seeking covenant-breaker is as pleased with such a view of the state as the responsibility-freeing Christian pietist is. This is why there is now and always has been *an implicit judicial alliance between antinomian Christians and humanist statists*. Here is an ideal way to silence Christians in all judicial matters except murder: insist that "The Bible doesn't offer a blueprint for civil law!" With this judicial affirmation, antinomian, responsibility-flee-

46. A. D. Lindsey, *The Modern Democratic State* (New York: Oxford University Press, [1943] 1959), ch. 5.

47. Rousseau's version of the sovereignty of the General Will might best be described as the Cole Porter theory of the state: "Anything Goes."

48. I studied systematic theology under John Murray. In private, he was an anti-New Deal conservative. In public, he was politically mute. Both Wayne House and Tommy Ice were political conservatives. In terms of a developed social and political theory, however, they were equally mute.

ing Christians sound the retreat, and secular humanists and other covenant-breaking power-seekers sound the attack. The victim is in principle victimized even further by this view of Noah's drastically restricted covenant, and the messianic state is unchained by it. *All this is accomplished in the name of a "higher" view of theistic ethics than the Mosaic law supposedly offered to the Israelites.*

This supposed dichotomy between Noah's covenantal sanctions and Moses' covenantal sanctions, and also between Moses' covenantal sanctions and Jesus' covenantal sanctions, cannot survive a careful examination of the biblical principle of *victim's rights*, which is also the principle of the *judicially limited state*. The biblical judicial principle is this: victims of criminal acts possess the God-granted legal right to specify no penalty or any penalty up to the maximum limit allowed by God's Bible-revealed law. Neither the state nor the humanistic sociologist is entitled by God to increase or reduce this victim-specified penalty. But in order to keep the principle of victim's rights from becoming tyrannical, God's law specifies maximum penalties. Men must be restrained by law. To argue that there ever was, ever is, or ever will be a time when men are not under God's specified judicial sanctions is to argue that they are under sanctions imposed by autonomous man, meaning the self-proclaimed autonomous state. In short, to argue this is inescapably to argue also that God has in history authorized either the tyranny of the unchained state or else the implicit subsidizing of criminal behavior through the state's unwillingness to impose God's specified sanctions. In either case, victims lose. This is what antinomians of all varieties refuse even to discuss, let alone answer biblically.

There will always be sanctions. The relevant questions are: Which sanctions? What laws? Who judges? There will always be *judicial chains*, either attached to Satan (Rev. 20:1–2), his demonic host (II Peter 2:4; Jude 6), and his covenantal earthly representatives, or else attached to the righteous victims of Satan's covenantal representatives (Acts 12:7; 21:33). The modern antinomian Christian and the modern power-seeking statist want to break God's judicial chain, His revealed law. The result is the victimization of the judicially innocent and the expansion of the messianic state.

Conclusion

All sins are against God and God's law. All sinners are criminals in the hand of a temporarily merciful Victim. God sits on His throne

as final Judge and even temporal Judge (e.g., He slew Ananias and Sapphira: Acts 5:5, 10). But to sin against God, men usually must sin against something in the creation.[49] The Bible provides case laws that define those sins against any aspect of the creation which constitute civil, familial, or ecclesiastical infractions. Where a sin does constitute an infraction, *the victim must represent God by becoming a plaintiff against the sinner*. He upholds the integrity of the injured party and also seeks restitution. In some cases, restitution is made only to the victim; in other cases, it must also be made to God through a payment to His church (Lev. 6:1–7).

The Bible provides five remedies for criminal behavior: (1) flogging (up to 40 lashes), (2) the slashing of a woman's hand; (3) economic restitution, which can be large enough to require (4) up to a lifetime of bondage, and (5) execution. The goals of these penalties include: (1) upholding God's interests by enforcing His law (civil worship)[50]; (2) penalizing criminal behavior, sometimes by removing the criminal from this world (vengeance); (3) warning all people of the eternal judgment to come (evangelism); (4) protecting civil order (deterrence); and (5) protecting the interests of victims (justice). Ultimately, all of these goals can be summarized in one phrase: *upholding God's civil covenant*.

Notice that there is no mention of imprisonment. Hirsch wrote a century and a half ago: "Punishments of imprisonment, with all the attendant despair and moral degradation that dwell behind prison bars, with all the worry and distress that it entails for wife and child, are unknown in Torah jurisprudence. Where its power holds sway, prison for criminals does not exist. It only knows of remand custody, and even this, according to the whole prescribed legal procedure, and especially through the absolute rejection of all circumstantial evidence, can only be of the shortest duration."[51]

Biblical law upholds the victim's interests. The criminal is to make restitution to his victim. The victim has the right to extend mercy, but that is his decision, not the judge's. Judges are to serve as agents of the victim, who is God's primary earthly representative in criminal affairs. The primary goal of criminal justice theory should be to

49. An exception could be mental sins, yet in a sense even these are sins against the creation: a misuse of man's gift of reason.

50. If civil magistrates are ministers, as Paul says they are (Rom. 13:4), then there is an element of worship in their enforcement of God's law. Sanctions are imposed in God's name.

51. Hirsch, *Exodus*, p. 294: at Exodus 21:6.

discover and enforce civil penalties that uphold victim's rights within the guidelines established by Scripture.

When the victim refuses to prosecute, the other covenantal courts are required by God to honor this decision. The criminal is not to be prosecuted by any covenantal court without the co-operation of the victim. When the state is the victim, or when a victim cannot be identified (e.g., a speeding violation), the judges are allowed to impose penalties up to the limit of God's Bible-revealed civil law, or when a penalty is not specified by the Bible, up to the limit of the written statute.[52] They can also impose reduced penalties, except where the pleonasm occurs. Where the pleonasm occurs, and where the state is not itself the victim, the judges must act as God's agents and impose the penalty that the pleonasm requires. This is the judicial function of the pleonasm of execution: *a restriction on leniency by civil judges when punishing "victimless crimes."* The judges must execute the convicted criminal without mercy. God requires him to be delivered speedily into His court.

Those who reject my thesis regarding the pleonasm must answer some very difficult questions. *First*, on what legal basis other than victim's rights did Joseph, said by the text to be a just man, fail to prosecute Mary either in a priestly court or a civil court? Had the law's sanction been changed by God before the birth of Jesus Christ? What is the evidence for such a view of the law's sanctions? *Second*, on what legal basis other than victim's rights did Jesus announce the temporal forgiveness of those who had crucified Him? *Third*, on what legal basis other than victim's rights had God refused to execute Israel for her adulteries? Put differently, what was the judicial basis of the Book of Hosea? *Fourth*, on what legal basis other than victim's rights did God divorce Israel when He transferred His kingdom to the church (Matt. 21:43), yet also allowed her to survive another generation after the crucifixion of Jesus Christ and the incorporation of the church by the Holy Spirit? Not until critics provide consistent, well-developed, Bible-supported answers to these and related judicial questions should they abandon the Mosaic law's principle of victim's rights.

52. The Bible does not specify the amount of a proper fine for a speeding violation. It lays down the general principle of protecting potential victims. The civil authorities must then decide what the fine should be by balancing the risks to people as pedestrians vs. the benefits to people as drivers. Fines should vary according to speed and also according to geographical safety considerations such as school zones. See Chapter 37:D:3.

Addendum: Cases to Which the Pleonasm Is Attached

I have put in bold face those case laws in which the state in Old Testament Israel was required to initiate the prosecution, and therefore those cases in which the convicted criminal had to be put to death.

> **He that smiteth a man, so that he die, shall be surely put to death** (Ex. 21:12).
>
> And he that smiteth his father, or his mother, shall be surely put to death (Ex. 21:15).
>
> And he that stealeth a man, and selleth him, or if he be found in his hand, he shall surely be put to death (Ex. 21:16).
>
> And he that curseth his father, or his mother, shall surely be put to death (Ex. 21:17).
>
> **Whosoever lieth with a beast shall surely be put to death** (Ex. 22:19).
>
> **Ye shall keep the sabbath therefore; for it is holy unto you: every one that defileth it shall surely be put to death: for whosoever doeth any work therein, that soul shall be cut off from among his people** (Ex. 31:14).
>
> **Six days may work be done; but in the seventh is the sabbath of rest, holy to the LORD: whosoever doeth any work in the sabbath day, he shall surely be put to death** (Ex. 31:15).
>
> **Again, thou shalt say to the children of Israel, Whosoever he be of the children of Israel, or of the strangers that sojourn in Israel, that giveth any of his seed unto Molech; he shall surely be put to death: the people of the land shall stone him with stones** (Lev. 20:2).
>
> For every one that curseth his father or his mother shall be surely put to death: he hath cursed his father or his mother; his blood shall be upon him (Lev. 20:9).
>
> And the man that committeth adultery with another man's wife, even he that committeth adultery with his neighbour's wife, the adulterer and the adulteress shall surely be put to death (Lev. 20:10).
>
> And the man that lieth with his father's wife hath uncovered his father's nakedness: both of them shall surely be put to death; their blood shall be upon them (Lev. 20:11).
>
> And if a man lie with his daughter in law, both of them shall surely be put to death: they have wrought confusion; their blood shall be upon them (Lev. 20:12).

> **If a man also lie with mankind, as he lieth with a woman, both of them have committed an abomination: they shall surely be put to death; their blood shall be upon them** (Lev. 20:13).
>
> **And if a man lie with a beast, he shall surely be put to death: and ye shall slay the beast** (Lev. 20:15).
>
> **And if a woman approach unto any beast, and lie down thereto, thou shalt kill the woman, and the beast: they shall surely be put to death; their blood shall be upon them** (Lev. 20:16).
>
> **A man also or woman that hath a familiar spirit, or that is a wizard, shall surely be put to death: they shall stone them with stones: their blood shall be upon them** (Lev. 20:27).
>
> **And he that blasphemeth the name of the Lord, he shall surely be put to death, and all the congregation shall certainly stone him: as well the stranger, as he that is born in the land, when he blasphemeth the name of the Lord, shall be put to death** (Lev. 24:16).
>
> **And he that killeth any man shall surely be put to death** (Lev. 24:17).
>
> I the Lord have said, I will surely do it unto all this evil congregation, that are gathered together against me: in this wilderness they shall be consumed, and there they shall die (Num. 14:35).
>
> For the Lord had said of them, They shall surely die in the wilderness. And there was not left a man of them, save Caleb the son of Jephunneh, and Joshua the son of Nun (Num. 26:65).
>
> **And if he smite him with an instrument of iron, so that he die, he is a murderer: the murderer shall surely be put to death. And if he smite him with throwing a stone, wherewith he may die, and he die, he is a murderer: the murderer shall surely be put to death. Or if he smite him with an hand weapon of wood, wherewith he may die, and he die, he is a murderer: the murderer shall surely be put to death** (Num. 35:16-18).
>
> **But if he thrust him of hatred, or hurl at him by laying of wait, that he die; Or in enmity smite him with his hand, that he die: he that smote him shall surely be put to death; for he is a murderer: the revenger of blood shall slay the murderer, when he meeteth him** (Num. 35:20-21).
>
> **Moreover ye shall take no satisfaction for the life of a murderer, which is guilty of death: but he shall be surely put to death** (Num. 35:31).

No instances of the pleonasm appear in the Book of Deuteronomy. I do not think this has any biblical-theological significance. The biblical hermeneutical principle of the continuity of a God-revealed law is this: unless a law or its sanction is repealed by a subsequent

biblical revelation, it is still judicially binding. The pleonasms did not have to be repeated in Deuteronomy in order for them to be binding in the land. God's laws in Exodus, Leviticus, and Numbers were not exclusively "wilderness laws," with the laws of Deuteronomy alone to serve as the law of Israel in the land. In any case, the severity of God's sanctions tends to increase over time as men's maturity increases. This is a basic principle of biblical jurisprudence: *men's knowledge of God increases over time, and so does their personal and corporate responsibility*. "The lord of that servant will come in a day when he looketh not for him, and at an hour when he is not aware, and will cut him in sunder, and will appoint him his portion with the unbelievers. And that servant, which knew his lord's will, and prepared not himself, neither did according to his will, shall be beaten with many stripes. But he that knew not, and did commit things worthy of stripes, shall be beaten with few stripes. For unto whomsoever much is given, of him shall be much required: and to whom men have committed much, of him they will ask the more" (Luke 12:46–48). Because they were required by God to exercise greater responsibility in the Promised Land, as testified to by the ending of the miraculous agricultural subsidy of the manna (Josh. 5:12), the law's civil sanctions did not decrease in rigor; if anything, they increased. The pleonasm was still judicially binding in Canaan. The equivalent phrase in Deuteronomy is, "so shalt thou put [purge] evil away from you" (Deut. 17:7; 19:19; 21:21; 22:21, 24; 24:7).

APPENDIX N

COVENANTAL LAW AND COVENANTAL LOVE

But when the Pharisees had heard that he had put the Sadducees to silence, they gathered together. Then one of them, which was a lawyer, asked him a question, saying, Master, which is the great commandment in the law? Jesus said unto him, Thou shalt love the Lord thy God with all thy heart, and with all thy soul, and with all thy mind. This is the first and great commandment. And the second is like unto it, Thou shalt love thy neighbour as thyself. On these two commandments hang all the law and the prophets.

MATTHEW 22:34–40

The New Testament is a commentary on the Old Testament, in the light of the new revelation given by Christ and the Holy Spirit. We need to understand the New Testament by referring to the Old Testament, and we need to look at the New Testament in order to understand the Old Testament. It is not that the New Testament revelation is in opposition to the old. Jesus categorically denied such a possibility (Matt. 5:17–19).[1] What the New Testament does is to specify more clearly the *general principles* that undergird Old Testament law, and to specify which of the Old Testament's laws were fulfilled by Christ's life, death, and resurrection. Christ did not annul *the principles* of the law, but in certain cases He annulled the *ritual form* in which those principles had been set forth by God to His people.

A. Jesus and the Pharisees

We should not expect that Jesus would announce a revision of the Old Testament law's fundamental teachings. The Pharisees clearly

1. Greg L. Bahnsen, *Theonomy in Christian Ethics*, 2nd ed. (Phillipsburg, New Jersey: Presbyterian & Reformed, 1984), ch. 2.

did not expect Him to say that the law—meaning the Ten Commandments—is no longer applicable. Had they expected such a statement, they would not have asked Him which one of the laws is most important. What the lawyer probably intended to do was to drag Jesus into a detailed, "Pharisaical" argument over which of the 10 is most fundamental. Then, with the skills of a legal professional, the lawyer no doubt believed that he could make Jesus' answer look incomplete. "What about this other law? And what about still another law? Haven't you undercut the very law itself, etc. etc." In short, it was one more example of the Jewish leaders unsuccessfully trying to tie Jesus up in the details of the law. It was another "leading question."

Jesus invariably responded to their leading questions in such a way as to expose the spiritual rebellion of those who asked such questions. This is why they fell silent every time He answered one of their questions. In this instance, He shifted the discussion to the ultimate aspect of all biblical religion: the *theocentric* nature of all true worship. The greatest of the commandments is that commandment which demands that we worship God with every aspect of our being. He cited Deuteronomy 6:5 to prove His point.

He could have stopped right there. He had answered the lawyer's question. This is the greatest of the commandments. To have denied Jesus' answer, or quibbled with it in any way, the lawyer would have had to say that some other law is the all-encompassing law, of which this one is simply a partial derivative. But there is no such law. All the laws of the Bible are applications and extensions of this great theocentric principle. We must begin with acknowledging our absolute responsibility to worship God with everything we have as creatures—not just our goods, but with ourselves. Could the lawyer have appealed to one of the Old Testament sacrifices as more important? Hardly; they involve giving up only goods. But the biblical principle which Jesus sets forth here, which Paul illuminated in a different context, is this: "I beseech you therefore, brethren, by the mercies of God, that ye present your bodies a living sacrifice, holy, acceptable unto God, which is your reasonable service" (Rom. 12:1).

Nevertheless, Jesus went on. He gave the second greatest commandment: to love our neighbors as ourselves. This was Jesus' way of nailing down the argument. The lawyer was now in no position to respond, "Yes, but what about the specifics of the laws that Moses gave? What about our day-to-day dealings with men?" He might not have asked this. If he wanted to appeal to the crowd, however, he

might have. "What about our obligations to man? What law gets our first attention?" Jesus' response headed off all such questions. The second principle is analogous to the first. Men are made in God's image. We should therefore love our fellow man. But how much love is proper? Certainly, not the love we show to God. We owe him everything. But a good test of how much we love another creature is to estimate how much we love ourselves. Jesus assumes that each man wants to do his best for himself. Men are always "looking out for Number One." So, He said, look out for your neighbor just as you look out for yourself. You are a man; he is a man; both of you deserve the same consideration, for both of you are made in God's image.

B. Love and the Law

The question related to the law. The answers spoke of love. Are these two in opposition? Obviously not. Jesus always dealt faithfully with the questions of his questioners. This is why they were always struck dumb. They were incapable of replying, precisely because Jesus' answers were flawless. There was never anything more to say without either agreeing with Him or winding up in opposition to the Old Testament. Therefore, when Jesus answered the lawyer's question concerning the greatest of the laws, He was saying clearly and unmistakably that all the laws of God are a working out of the principle of love—theocentric love first of all, and neighborly love second. If these laws are applications of the principle of love, then how can they be in opposition to love?

The lawyer recognized this. He did not reply. By focusing on the loving aspect of love, Jesus removed the question from the realm of legalistic debate. You love God with everything you are and have; *therefore,* you also must love your neighbor as yourself. But how do we love our neighbors? Clearly, by treating them as faithfully as we treat ourselves. By giving them the same "benefit of the doubt" in a dispute that we give ourselves. In short, this is the so-called *golden rule*: "Therefore all things whatsoever ye would that men should do unto you, do ye even so unto them: for this is the law and the prophets" (Matt. 7:12). This is the biblical version of the more common phrase (which is not found in the Bible): "Do unto others as you would have others do unto you."

1. The Sermon on the Mount

Jesus' sermon on the mount is a commentary on God's "sermon" on the mount to Moses. This is what modern Christians have failed

to recognize. There is a deeply rooted tradition of interpreting Jesus' words as if they stood in opposition to the law which God delivered at Mount Sinai. This tradition is wrong. It is perhaps the most dangerous heresy in twenty-first-century Christianity. It flies in the face of Jesus' warning: "Think not that I am come to destroy the law, or the prophets: I am come not to destroy, but to fulfil. For verily I say unto you, Till heaven and earth pass away, one jot or one tittle shall in no wise [way] pass from the law, till all be fulfilled. Whosoever therefore shall break one of these least commandments, and shall teach men so, he shall be called the least in the kingdom of heaven: but whosoever shall do and teach them, the same shall be called great in the kingdom of heaven. For I say unto you, That except your righteousness shall exceed the righteousness of the scribes and Pharisees, ye shall in no case enter into the kingdom of heaven" (Matt. 5:17–20).

Who were the scribes? They were the Jewish lawyers. In Mark's account of the lawyer's question to Jesus, it says that he was a scribe (Mark 12:28). This scribe apparently had not heard Jesus' original statement at the "Sermon on the Mount," or if he had, he had forgotten about it. Jesus did not vary His views. *Doing righteously to other men is the essence of biblical law, for we do our righteous acts representatively unto God* (Matt. 25:34–40). His first answer to the lawyer did help to clarify the theocentric foundation of the law commanding neighborly love. But the Pharisees should have understood already that it was not. a particular Old Testament law which was the focus of His ministry, but the *underlying principle of all God's laws*. This, in fact, was what *distinguished Jesus' teaching from the common culture's first principles*. The common doctrine in Israel was that men should love their friends and hate their enemies.

> Ye have heard that it hath been said, Thou shalt love thy neighbour, and hate thine enemy. But I say unto you, Love your enemies, bless them that curse you, do good to them that hate you, and pray for them which despitefully use you, and persecute you. That ye may be the children of your Father which is in heaven: for he maketh the sun to rise on the evil and on the good, and sendeth rain on the just and on the unjust. For if ye love them which love you, what reward have ye? Do not even the publicans [tax collectors] do the same? And if ye salute your brethren only, what do ye more than others? Do not even the publicans do so? Be ye therefore perfect, even as your Father in heaven is perfect (Matt. 5:43–48).

Notice His frame of reference here. *Your* enemies. Those who use *you* despitefully. Jesus was not saying that the enemies of God should

be allowed to escape the lawful punishment of their crimes against man and God. He was not repudiating the Ten Commandments, which He had affirmed categorically a few moments before (vv. 17–19). What He was saying is this: *in your judicial dealings with all men, treat them as you would treat your friends*. If your friends violate God's law, you do not repudiate the law. If your friend commits murder, you do not allow that murder to go unpunished, if you have information that would convict him. To do so would be to become an accomplice to the crime. Jesus is taking this principle of law enforcement right to the heart of each man. If you yourself commit murder, you must turn yourself in to the civil authorities, just as you would turn in your worst enemy. *You must honor God's law.* Paul announced this principle forthrightly when he was in court: "For if I be an offender, or have committed any thing worthy of death, I refuse not to die" (Acts 25:11a). To refuse not to die is to love God, and to love the righteousness of God, more than you love your own life. This is the essence of conversion: "He that findeth his life shall lose it: and he that loseth his life for my sake shall find it" (Matt. 10:39).

The New Testament tells us to love our neighbors as ourselves. We are to deal with them in terms of God's law. We *owe* them such fair dealing. "Love worketh no ill to his neighbour; therefore love is the fulfilling of the law" (Rom. 13:10). But what is "ill"? It is unrighteous dealing. How do we test what is "ill" and what isn't? By the standard of the law of God. This is why love fulfills the law. It is not that love overcomes the law, or annuls the law, or abrogates the law. Love *fulfills* the law, just as Jesus Christ fulfilled the law. He did not go on to deal unlawfully with men. How could He? He was the *author* of the law. Nor should we go on to deal unlawfully with men.

Jesus was not denying the legitimacy of biblical law. On the contrary, He was *affirming* biblical law. We love God first; God commands us to keep His word; therefore, we must enforce the law on ourselves. We start with ourselves because we have more knowledge of ourselves and more responsibility over ourselves. This is the meaning of *progressive sanctification*. Jesus was not calling us to ignore biblical law; He was calling us to enforce it first on ourselves, before we enforce the same laws on others.

> Judge not, that ye be not judged. For with what judgment ye judge, ye shall be judged: and with what measure ye mete, it shall be measured to you again. And why beholdest thou the mote that is in thy brother's eye, but considerest not the beam that is in thine own eye? Or how wilt thou

> say to thy brother, Let me pull out the mote out of thine eye; and behold, a beam is in thine own eye? Thou hypocrite, first cast out the beam out of thine own eye; and then shalt thou see clearly to cast out the mote out of thy brother's eye (Matt. 7:1–5).

Notice what He did *not* say. He did not say that it is all right to go through life with motes (small chips) in our eye. The eye is the most sensitive organ in the body. A mote in an eye could blind it, or seriously interfere with our vision. Jesus did not condone sin in any form. Sin is a horror; it jeopardizes our very existence. It should not be allowed to remain in your eye, and we are required by God to do what we can to help remove chips from our neighbors' eyes. We are to use biblical law to assist them. What Jesus was saying is that we need to be constantly on the lookout for motes in other people's eyes, so that *we can help them remove them.* But to accomplish this, we must first get rid of the beams in our own eyes. We must be able to go to the other person and tell him: "Look, I used to have a really bad beam in my eye, and it blinded me. But through the grace of God, I was able to remove it. I see that you're suffering from the same thing. Let me show you how God's word speaks to your minor problem, just as it spoke to my major one." In other words, "I've been there. I know what it is. *It leads to blindness and agony.*"

This is the approach of the most successful alcoholic rehabilitation program, Alcoholics Anonymous. When a man at last chooses to become sober, and is faced with a terrible craving to drink, he calls his sober friends who were former alcoholics. He goes to those who have suffered what he is suffering. He doesn't telephone his Aunt Tilly, who never touched a drink in her life, unless Aunt Tilly has a known prayer life which produces healings and near-miracles whenever she prays. Besides, he probably already asked Aunt Tilly to pray for him, and he still got drunk. So he calls the men who suffered from beams (Jim Beams?) and who successfully solved their problem.

There is a tendency in twenty-first-century fundamentalism, evangelicalism, and pietism for law-hating, responsibility-avoiding Christian people to piously assert, "It is not our responsibility to judge. We must show mercy to everyone. We are sinners, too." This is the worst kind of hypocrisy. What they are *really* saying is that they judge not, because they do not want to be judged. They want perpetual mercy for their *continuing* sins, so they therefore avoid criticizing others. But this is evil. The goal of redeemed man's life is ethical perfection (Matt. 5:48). The means by which redeemed people *approach* this

goal is *self-government under God's law*, what we also call progressive sanctification. We *want* to be judged by God's law. This is our affirmation of the sovereignty of God. We *want* the law of God to rule over every man's actions, every institution, throughout history. Such honoring of God's law is the basis of the dominion covenant. But to see God's law universally honored, we must do everything that we can to honor it in our own lives.

The "judge not" verse warns us not to judge others by any standard other than the one we want to be used in judging us. But the converse is equally true: once we have judged ourselves, and have disciplined ourselves in terms of God's standard, it is our moral obligation to begin to apply this same law to every area of life over which we have a God-given authority. This is why the Bible sets forth rigorous standards for becoming an elder or deacon (I Tim. 3). They must achieve self-discipline and then discipline over their families before they are allowed to discipline other church members. Similarly, if we are eligible to vote, we must get registered. If we are registered, we should take time to study the issues. Then we should vote accordingly. The "judge not" passage is not a license for pietistic retreat from the world. The context of the "Sermon on the Mount" shows clearly that *the "judge not" passage is a call to dominion.* It instructs us to begin with ourselves, so that we can then work to extend the principles and enforcement of God's principles to areas of life over which we have lawful authority.

C. Exercising Judgment

The "judge not" passage is a *positive command* by implication: a command to *judge righteously in terms of biblical law.* We are called by God to exercise judgment. This is the inescapable reality of man (Gen. 1:28). Man judged in the garden, but he judged rebelliously. Redeemed men will eventually judge the angels (I Cor. 6:3). If we are never to judge on earth, then when will we get the ability? Will God grant the gift of good and godly judgment to men who have fled this responsibility all their lives? This is unlikely.

If we do not exercise good judgment, then how can we fulfill the terms of the dominion covenant? The historic response of the "judge not" pietists—the defenders of the *escapist religion*—is to deny the existence of this covenant. But if Christians deny the existence of a law-covenant—if they deny that all men are under God's dominion covenant—and if they deny that there are eternal laws that serve as

standards by which all men are required to perform, then how is the sinner to be confronted with the reality of his sin? If Christians are incapable of helping unregenerate men see their sins, and if they are therefore incapable of assisting newly regenerate men to overcome their newly perceived sins, then what happens to church discipline? The institutional answer of the pietists has been *to deny the necessity of church discipline*. The consistent ones go so far as to deny the legitimacy of much of civil government, too. They deny the death penalty for capital crimes. Some of them do everything possible to promote the state as a substitute parent, but a parent without a rod of discipline. Others simply deny all civil law whatsoever—and therefore are compelled to deny the continuing authority of the Old Testament.[2]

The power-seeking religionists understand the centrality of judgment and discipline, but they have substituted the state in God's place. Thus, they seek to expand the centralized power of the state, and to extend the state's power over every area of life. They seek to worship their God, human power, by incorporating it into a political monopoly. They understand the fixed relationship between *sovereignty, power, and judgment*. As agents of collective mankind, they seek to become agents of the power state. They seek ever-increasing opportunities to exercise judgment.

This is why the power religionists always find allies with the escapist religionists. The escapist religionists point to the power of humanist man, who is ultimately satanic man, and they conclude that this power is an aspect of Satan's control over the earth until Jesus comes again. When these escapist religionists are confronted with the responsibilities associated with the dominion covenant, they recoil in horror. Dominion, in their eyes, is too much like autonomous man's power. To adopt such a view of Christianity would mean that they

2. Mark McCulley, "Faith and Freedom: A Fifth View of Christian Economics," *Nomos*, II (Winter 1984). McCulley called his anti-Old Testament, anti-civil government position the "economics of Christian exile." This is well-named. *Exile* is the essence of the escapist religion. He ended his article with a partial citation of John Wesley: "earn all you can; give all you can." He deliberately ignored Wesley's third principle, *save* all you can, which is the foundation of economic growth and linear development unto dominion. McCulley was hostile to such a view, for he understood the thrift principle well enough to see where it leads in principle, and where it has led in the past: to modern industrial capitalism. He did not hate capitalism, unlike so many of his Anabaptist colleagues; he hated growth-oriented industrial production. This is why he praised as followers of Jesus' New Testament ethic "Ballou, the Hopedale community, and a few 'come-outers'" in the post-Civil War Christian era. "Down on the farm" communalism has long been the final resting and retreating place for pacifist Anabaptists. The revolutionary Anabaptists have generally headed for the cities, in order to consolidate power.

would have to become involved in a head-on, lifetime confrontation with Satan's earthly kingdom of power. They would have to begin to exercise judgment. They prefer to stay in the shadows of history in the name of a "higher spirituality" or a "higher calling" from God. They prefer to avoid the visible, *civilizational* confrontations. Thus, the power religionists can enlist the retreatists as allies in their war against covenantal religion.

The standard ploy of the theological liberals in the United States from the late nineteenth century until they consolidated ecclesiastical power in the 1920s and 1930s in the North, and in the 1950s and 1960s in the South, was to criticize all heresy trials—where they were going to be the victims—in the name of institutional peace and toleration. They directed this incomparably successful appeal to the weak-hearted souls in the churches. These people wanted institutional peace above all. Until the liberals gained complete control and shoved them aside, these conservative battle-avoiders had a majority in every major denomination. Decade by decade, the liberals quietly consolidated power: in seminaries, in colleges, and in the churches' various boards, especially the missions boards. When the theologically committed conservatives finally realized what had happened, it was too late. They could no longer gather theologically committed troops for a fight. The theology of a majority of the conservatives was "peace at any institutional price." So they paid the highest possible price: the capture of their churches by the opponents of biblical Christianity. In the churches with a strong hierarchy, the liberals eventually pushed out the orthodox pastors, with the exception of the Missouri Synod Lutherans.[3] In the decentralized associations, they simply isolated the orthodox men from the seats of power. This has always been the humanists' strategy. With only a few exceptions, it worked superbly. The archetype was the capture of the Presbyterian Church, U.S.A. (Northern).[4]

D. Social Cooperation

When Christian men treat non-Christians as men deserving of the benefits of biblical law, they become **evangelists.** The benefits of the law become visible to covenantal outsiders. The law is to be a tool of

3. Kurt E. Marquart, *Anatomy of an Explosion: A Theological Analysis of the Missouri Synod Conflict* (Grand Rapids, Michigan: Baker Book House, 1977).

4. Gary North, *Crossed Fingers: How the Liberals Captured the Presbyterian Church* (Tyler, Texas: Institute for Christian Economics, 1996).

evangelism (Deut. 4:6–8). But this program of evangelism requires God's people to keep the law (Deut. 4:9).

Because Jesus made it plain that all men are to be extended the *courtesy* of the law, as well as the *restraining authority* of the law, Christianity has become an international leaven. It has risen up in pagan cultures and has replaced many of the worst features of the old paganism. The Old Testament also required God's people to deal righteously with other men, but the empowering of the Holy Spirit and the church's first-century exodus out of Palestine universalized the declaration and manifestation of biblical law in a new way.

Consider the concept of the contract. When Christians are commanded to deal with non-Christians righteously, they are placed under the terms of biblical law. To the extent that they obey biblical law, other people can make better predictions concerning the performance of Christians in voluntary associations. The law is an open book. It is easily read and understood. Children are to be taught biblical law (Deut. 6:7; 31:12). It is suitable for children, in other words. Thus, non-Christians should find it less risky to co-operate in economic ventures with Christians, *if Christians respect biblical law.* By reducing the risk (uncertainty) of working with Christians, biblical law thereby *increases the non-Christians' demand for Christians to associate with.* The price of cooperation drops when uncertainty drops. As the price drops, more of the good is demanded. The "good" in question is the honest labor and insight of the covenant man. More people want it.

This is another impetus to Christian dominion. Christians become the people other men prefer to work with and deal with. Their opportunities for increasing their own authority are increased because of this added readiness of non-Christians to work with them. The unbeliever hopes to benefit personally from the relationship. This could be called the "Laban" strategy, or the "Potiphar" strategy: make it beneficial for covenant-breakers to co-operate with covenant-keepers.

This does not mean that Christians are to become "doormats." They are not to become "pushovers." They are to honor Gid's law, both when it benefits them personally and when it doesn't. There are times when enforcing biblical law decreases the unbeliever's capital or opportunities—sinful opportunities. In such cases, Christians are to abide by biblical law. The terms of God's covenant must govern the Christian's enforcement of the terms of a contract.

Honesty is the best policy, Ben Franklin said. He was correct. As men perceive that Christians are honest and can be trusted, honest

men will seek them out. Those non-Christians who have been given the common grace of honesty will want to work with Christians, *if Christians honor biblical law.* This puts Christians in association with honest people, who are also following the best policy. This puts dishonest people at a competitive disadvantage, for Christians can take advantage of the increased productivity of the division of labor by working with honest non-Christians. Christians increase their authority and capital by associating with, and learning from, skilled honest people, whether Christian or non-Christian.[5] This is a major economic benefit of honoring the golden rule.

E. Antinomianism, Anarchy, and Tyranny

What I have argued throughout *An Economic Commentary on the Bible* is that biblical law is the ideal foundation for social order. Only to the degree that societies conform to the standards of biblical law can they experience the blessings promised by the law (Deut. 28:1–14). This does not mean that a society needs to become explicitly Christian, nor does it mean that all or a majority of its members must be regenerated by the Holy Spirit. It means only that the written standards of God's law be honored.

I have also argued that it is inconsistent for non-Christian societies to retain allegiance to the standards of biblical law. Over time, they will become more consistent with their covenant-breaking presuppositions. Special grace is therefore necessary in the long run to sustain a society's commitment to the standards of biblical law. Nevertheless, during that historical period in which the law's externals are honored in deed, and possibly even in word, the society in question will become the beneficiary of the external power that the law delivers. Examples in the Bible of such external power and blessing are Egypt under Joseph's counsel, Nineveh after the preaching of Jonah, and Medo-Persia under Daniel's counsel. It is true that the law eventually brings death (Rom. 7), for it testifies to man's rebellion and curse, and this is why covenant-breaking societies cannot remain faithful to the externals of biblical law forever. They must either abandon God's law or be converted to the gospel.

We also find examples of Christian societies that steadily abandon the externals of biblical law, and in doing so, grow culturally impotent. Americans have lived in such a society for over a century. We find that

5. Gary North, "Competence, Common Grace, and Dominion," *Biblical Economics Today*, VIII (June/July 1985).

those who should proclaim a dominion religion have become adherents of the escapist religion. Meanwhile, the most consistent and ruthless advocates of the power religion in the history of man, the Communists, threaten to overwhelm the West. The Christians have become subservient to one group of law-hating humanists, who in turn have proven to be no match ideologically or militarily for the consistent humanists behind the Iron Curtain. It appears to be a replay of Israel's experience in the era of the judges: when the nation began to worship the gods of the Philistines, God delivered them into the hands of the Philistines. They learned just what it is like to live under foreign gods.[6]

Christian leaders for a century have consistently denied the continuing validity of Old Testament social and political law. This has led Christians to abandon God's tool of dominion, His law. God delivered them into the hands of the progressive educators and Darwinists, the political **salvationists**, and the welfare statists. Conservative Christians in dispensational churches, liberal Christians in mainline denominations, and Calvinist Christians inside tiny, invisible denominations have stood arm in arm theologically on the question of the authority of biblical law today. It has no continuing authority today, they affirm. Such a doctrine has played into the hands of the humanists, who also affirm this doctrine.

In 1984, the increasingly liberal InterVarsity Press published a collection of four essays and responses, *Wealth and Poverty: Four Christian Views of Economics.* I was one of the participants, the defender of the free market approach. There was a socialist, a Keynesian, and a socialist who pretended to be a defender of voluntary communalism. His chapter was misleadingly labeled, "Decentralist Economics."

This latter position is the only significant alternative to free market Christianity, either intellectually or theologically, within American evangelical circles. The brief popularity of Ron Sider's *Rich Christians in an Age of Hunger* (1977), also published by InterVarsity Press, is indicative. (In Roman Catholic circles, especially in Latin America, Sider's brand of Christian socialism was regarded as soft-core and irrelevant; the liberation theologians there were Marxist revolutionaries. Sider was content merely to send the Nicaraguan Sandinistas money through his Jubilee Fund;[7] he was not yet willing to adopt their rhetoric. Too risky for a Baptist seminary professor.)

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6. James B. Jordan, *Judges: God's War Against Humanism* (Tyler, Texas: Geneva Ministries, 1985), pp. 40–41.

7. *The Other Side* (September 1979), p. 41.

Art Gish, the Sider surrogate in the published debate, was forthright in his moral outrage against capitalism and Western Civilization. Why did Gish hate Western Civilization and capitalism? Because he hated biblical law, and Western Civilization and capitalism are the social products historically of biblical law. He was a devout antinomian. "The answer to our problems is not biblical law but God's grace, the saving grace of Jesus Christ expressed in a new order, God's kingdom. The law cannot bring salvation. Neither will the capitalist doctrine of salvation by works lead to life."[8]

The startling aspect of this statement is that it has become the theological "coin of the realm" in Protestant circles. The reason why old-time fundamentalists were unable to counter Sider and his followers—the reason why tens of thousands of young Christians were converted to their view of capitalism in the late 1970s—is that the conservatives have adopted the same view of biblical law. Therefore, to counter Sider and the radicals, they have only conservative humanist arguments, and these do not have the emotional and rhetorical appeal for college students that warmed-over liberal rhetoric has. Furthermore, politically liberal students are in rebellion against their socially unconcerned and culturally impotent fundamentalist origins. So they respond positively to Sider and Gish because these "radical Christians" seem to be offering them relevance, but without breaking with the familiar "grace vs. law" theology they have brought with them to college or seminary. The old-time fundamentalists have lost the fight; they simply cannot compete with the radicals in terms of the "grace vs. law" theology.

Gish went on: "In the New Covenant we are offered something much better, the grace of going beyond greed and revenge and therefore the need of law.... As Christians, our lives can be governed by God's love and grace instead of law."[9] At last, he got to the point. Well, not quite. He was not yet ready to go the whole distance. So, he laid down the theological foundation of his unstated but inescapable conclusion: *the abolition of all government*. This has to be the conclusion, for without law there can be no government.

This conclusion is that same old demonic position which has accompanied radical revolutionaries and anarchism throughout history: the "truly free" man and the "truly free" society is lawless. Mankind

8. Art Gish, "A Decentralist Response," in Robert Clouse (ed.), *Wealth and Poverty* (Downers Grove, Illinois: InterVarsity Press, 1984), p. 75.

9. *Idem*.

has no need of law. In short, the "new mankind" are perfect. There is no need for civil government. There is also no need for church government. The next step, historically, has always been taken by the radicals, though not normally until they set up a local "kingdom of the saints": there is no need for *family government*.

Gish was an Anabaptist. His theology is the theology of the Anabaptists. In the sixteenth century, Anabaptist revolutionaries began to terrorize Europe. They gathered mobs together, set up city-states, adopted free love (or polygamy for the rulers) and socialism. They tore down churches. They murdered opponents. And they did it all in terms of the freedom of the Holy Spirit. Igor Shafarevich, a Soviet dissenter, wrote a chapter on this revolutionary heritage in his excellent book, *The Socialist Phenomenon* (Harper & Row, 1980). The chapter is titled, "The Socialism of the Heresies." David Chilton devoted an appendix to the same subject in his *Productive Christians in an Age of Guilt-Manipulators*. It summarizes Shafarevich and adds more historical data: "Socialism, the Anabaptist Heresy."

Where does such a theology lead? To tyranny. In the name of zero-law, the "saints" impose tyranny. Law is a means of self-government first, and a means of restricting tyranny secondarily. Biblical law, when enforced, restrains sin's public manifestations. Without it, men are left at the mercy of people who categorically deny the need for outward law because they have been "purified" by the Holy Spirit. Thus, the theory of anarchy and antinomianism invariably results in tyranny. This is why it is so misleading to label Gish's position "decentralist economics." It may appear to be decentralist, but it inescapably leads to tyranny by way of antinomianism.

In condemning Gish, I am simultaneously condemning all forms of antinomianism, including the antinomianism of modern dispensationalism and modern pietism. The difference between the typical Baptist preacher's message and Gish's message is a matter of personal taste and financing. It is not a difference in theology. The Baptist minister might be fired if he started preaching sermons that sounded like Gish's chapter. Gish was already safely down on his communal farm (at least until its economic principles drove it out of business in 1992), and he had a constituency of faithful "poverts" who could survive financially and send him money because they were employed by free market institutions or government institutions that are financed by taxes collected from free market institutions. Gish could afford to pursue his Anabaptist heritage somewhat more faithfully than the

typical antinomian pastor. In short, the difference between antinomian conservatism and antinomian liberation theology is more a matter of style and constituency than it is a matter of theology.

What is my thesis? Very simple: anyone who contrasts the love of God with the law of God is an implicit defender of tyranny.[10]

Conclusion

This is not the place to conduct an extended discussion of the relationship between grace and law. That topic has been covered in depth by Greg Bahnsen in *Theonomy in Christian Ethics* and in Part II of my book, *75 Bible Questions Your Instructors Pray You Won't Ask* (1984).[11] The issue here is the relationship between covenantal love and covenantal law. God saves His covenanted people by grace. This is an act of love. How does He do this? He looks at the *law-conforming* life, the *law-required* death, and *animal sacrifice-annulling* resurrection of Jesus Christ, and He counts Christ's righteousness as the righteousness of Christ's covenant people. He *imputes* Christ's righteousness to them *judicially* (definitive justification) and *morally* (definitive sanctification).[12] In short, God imputes definitively to the regenerate the absolute perfection of biblical law.

As men progressively work out their salvations with fear and trembling (Phil. 2:12b),[13] they are to be guided by God's law, since God's imputation to them of Christ's perfect keeping of this law is the only foundation of their salvation. They are to *judge* their own acts, both internal (mental) and external, in terms of this standard. They are to judge the external acts of other people by this same standard. *What other standard could regenerate men possibly use?* We must constantly ask ourselves, and endlessly ask the critics of the New Testament authority of Old Testament law: By what *other* standard?[14] If we love Christ, we will keep His commandments (John 14:15).

Only if Christ's commandments were different from the commandments God gave to Moses could we legitimately conclude that

10. Greg L. Bahnsen, *By This Standard: The Authority of God's Law Today* (Tyler, Texas: Institute for Christian Economics, 1985), Part II.

11. Tyler, Texas: Spurgeon Press.

12. Gary North, *Unconditional Surrender: God's Program for Victory*, 5th ed. (Powder Springs, Georgia: American Vision, [1980] 2010), pp. 43–51.

13. Gary North, *Ethics and Dominion: An Economic Commentary on the Epistles* (Dallas, Georgia: Point Five Press, 2012), ch. 20.

14. Greg L. Bahnsen, *No Other Standard* (Tyler Texas: Institute for Christian Economics, 1991).

the love of Christ is different from the love of God. Only then could we conclude that obedience to Christ is different from obedience to God. But there can be no difference; the God who created everything is the divine Logos, who was incarnated as the perfect human, Jesus Christ (John 1). Thus, any attempt to create a dualism between God's Old Testament law and Christ's New Testament law is simultaneously an attempt to offer *a two-Gods theory of history,* with the Old Testament God different from a New Testament God. This was attempted by Marcion in the second century, and he was condemned as a heretic. An implicit two-Gods theory has been proclaimed for centuries by Christian mystics and Anabaptists, and also by modern fundamentalists and evangelicals. The results have been culturally disastrous: the *anti-dominion principle in action.*

There is no contradiction between the ten commandments and the sermon on the mount. God's love is manifested to us in the law, which is the law of life. There is grace in God's law.

APPENDIX O

SOCIAL ANTINOMIANISM[1]

Antinomianism—the denial of the validity of the concrete application of Old Testament law in this era—has influenced modern Christianity to such an extent that virtually no Christian seminary even teaches a single course against it. Anglo-Israelite sects do pay attention to biblical law, which is, I believe, the reason that Garner Ted Armstrong's "The World Tomorrow" had such a huge radio audience and why he was more interesting than any orthodox Christian broadcasting in the late 1960s and early 1970s. He could comment successfully on the collapse of modern culture because he had concrete alternatives to offer.

Social antinomianism makes itself manifest in many ways. In the Reformed Protestant circles, the Dutch Calvinist movement associated with the name Herman Dooyeweerd was briefly influential in this regard, 1965–75. Always searching for the "true Christian attitude," the radical young neo-Dooyeweerdians proclaimed almost complete freedom from the restraining hand of concrete biblical law. Thus, attitude is substituted for obedience to revealed law. The non-Dooyeweerdian churchmen were unable to refute the radicals precisely because they held a similar, though less rigorous, antinomian philosophy. Their instincts may have been conservative, but their operating presuppositions did not allow them to challenge successfully the young radicals. The leaders of the neo-Dooyeweerdians, located primarily at the Free University of Amsterdam and the Institute for Christian Studies in

1. This article first appeared in my book, *An Introduction to Christian Economics* (Nutley, New Jersey: Craig Press, 1973), ch. 30. I reprinted it as an appendix in my book, *The Sinai Strategy: Economics and the Ten Commandments* (Tyler, Texas: Institute for Christian Economics, 1986), Appendix C. I reprint it here exactly as it appeared in *The Sinai Strategy*.

Toronto, combine a preference for government intervention and orthodox Christian language. The following article criticizes this combination. Troost's answer appeared in the same issue (Oct. 1967) of the *International Reformed Bulletin*. It did not convince me. Similar terminology and identical antinomianism have become universal in the "radical Christian" Anabaptist circles.

A. My Response to Troost

In the issue of the *International Reformed Bulletin* for Jan./April, 1966, an article written by A. Troost [TROWST, not TRUEST] appeared, "Property Rights and the Eighth Commandment." Troost, the article informs us, is a professor of social ethics at the Free University of Amsterdam, and as such he seems to be representative of an increasingly large number of Dutch Reformed scholars who claim to be building upon the foundation laid down by Herman Dooyeweerd. It is my belief that the basic implications of Troost's essay are ultimately antinomian, and for this reason it deserves an extended analysis.

The problem which faces the Christian scholar in the area of social philosophy is a very great one: he must make an attempt to outline policies for social reconstruction that are in accord with the biblical framework, and at the same time he must make use of a vast quantity of scholarship which has been produced by non-Christian thinkers. In other words, he must acknowledge that common grace has enlightened the unregenerate scholar to the extent that some of his endeavors may be useful to the Christian, but at the same time the Christian must sift and choose from this scholarship in the light of Reformed, biblical standards. Clearly, it is not a simple task, and some errors are bound to creep into the work of even the most careful Reformed thinker. Yet part of the heritage of the Reformation is the rejection of perfectionism, and the fact that some errors are inevitable does not relieve us of the task of working out the implications of our Christian position.

The Bible, in short, is absolutely fundamental in this work of social criticism. Without it, the Christian is left without a basic frame of reference by which he can evaluate the various proposals for social change. Bearing this in mind, the reader may be able to understand my hostile reaction to Troost's starting point: "As we saw in section 12, the Bible does not provide us with data, points of departure or premises from which to draw logical conclusions relevant to modern society's socio-economic problems, including property relations" (p. 32).

The question immediately arises: By what standard are we to evaluate the validity of any particular political or social proposal? If, as Christians, we cannot approach the special revelation presented in the Bible in the hope of finding our standards for social action, then where are we to go? It is Troost's position (and the position of many of his fellow Calvinist scholars) that the Bible gives us no data, no concrete recommendations, by which we can judge political programs; the task of ushering in the Kingdom of God is apparently to be accomplished without the guidelines of special, concrete revelation.

Nevertheless, Troost can assert that "The message of the Bible reveals something to us!" What is it which the Bible reveals? It gives us the story of the coming kingdom, of "the re-establishment of all things, to the total reconciliation, liberation and renewal of life by the person and work of Jesus Christ through his cross and resurrection." Even more than this, "The cross and the resurrection promise to our practice of property relations a complete liberation from the powerful grip of the sins of injustice and lovelessness" (p. 32).

Apparently, there *are* standards of "injustice and lovelessness." What are they, the Christian must ask, and where do we find them? So far, all that we know is that the Bible cannot provide them, at least not in the socio-economic realm. Troost reaches an impasse at this point. He has proclaimed a vague pietism in the name of Reformed scholarship. Unless he can find concrete standards of judgment that are somehow self-evident and eternally valid apart from the Bible, he leaves us without any basis for decision-making.

In spite of the fact that he has eliminated the Bible from the realm of social affairs, he now refers back to the book of Acts: "These first Christians did not abolish property, nor yet the means of production (e.g., landed estates). No, they put ownership and property rights back into the place where they belong, back into their proper function. 'Not a man of them claimed any of his possessions as his own, but everything was held in common' (Acts 4:32)..." (p. 33). Two preliminary observations should be made with regard to the interpretation of this passage. First, the decision to enter into such common ownership was voluntary, and anyone was permitted to hold his private property out off the common stock (Acts 5:4). Peter, in other words, proclaimed the right of private ownership as a perfectly legitimate Christian practice. Second, it is also relevant that the Christians in Jerusalem were expecting the fulfillment of the prophecy of the destruction of Jerusalem (Luke 21:20ff.), and any application of the

early church's practice of common ownership should be interpreted in this light. In times of social catastrophe (and in times of the confiscation of property by the State), it may be a wise decision for Christians to hold some common property, especially property which is mobile and easily hidden. But is it a general law?

The real issue, however, goes much deeper than either of these two criticisms. Troost argues from this passage in the following manner: "Thus did the practice of this church confirm the preaching of the gospel with signs and powers. Property relations were set free from their natural self-willed self-assertion and employed for loving service of God and neighbor" (p. 33). Now what are we to conclude from all of this? The Bible, Troost has argued, does not give us any "data, points of departure or premises from which to draw logical conclusions relevant to modern society's socio-economic problems, including property relations." Nevertheless, we are now told that the early Christians "put ownership and property rights back in the place where they belong," and Troost obviously expects us to take this example seriously. But on his grounds—on the presuppositions upon which he began his analysis—why should we pay any attention to what the early church did? Troost wants us to make an application of the church's practice in today's world, but why should we, if the Bible is not relevant to present-day economic and social problems? Does he mean that we should create a society in which property is held in common (socialism) and yet at the same time believe that we are not living under socialism (since property, he says, was not "abolished")? The whole argument is vague, but it appears that this is Troost's conclusion. If it is not, then I do not understand what he is talking about.

He refers to the fact that the early church "did not abolish property, nor yet the means of production (e.g., landed estates)." Private property was preserved in the sense that it was not sold to the State, true enough. They sold some of their fixed assets to non-Christians and deposited the wealth in the common treasury. They also gave some of their other goods directly to the Christian community. But this means that in order to follow their example in our day, we must sell our goods to unbelievers, thus making ourselves perpetual wage-earners and salaried laborers. It means that as private individuals, we can no longer own fixed capital goods like land and especially machinery. We are to become, in other words, a sort of huge Christian co-operative movement, at best employed by each other, but more probably employed by the unregenerate world. And if we are not to

draw such conclusions, then why did Troost bring up the subject in the first place? Either it is a concrete example to be followed, or else the whole incident is irrelevant. Again, we can admit that under social conditions comparable to those faced by the early church, something like this might be necessary, but as a prescription for all eternity it seems silly, especially in light of the fact that Peter did say that a total contribution to the common treasury was not required. Since Troost does not think that the Bible provides us with concrete data concerning economic affairs, it does not seem logical for him to bring up the matter at all. If he means simply that Christians should, on occasion, be willing to give up some of their private wealth to the Christian community, then he has not said very much.

Troost then mentions the fact that "the New Testament is not socially revolutionary" in the eyes of some Christians. He says that the New Testament, at least on its surface, "does not radically condemn the situation in which its authors preached and wrote" (p. 33). It even accepted slavery as an institution, as Paul's epistle to Philemon indicates. Troost realizes that the New Testament is, in this practical sense, profoundly conservative—it did not attack directly the social fabric of Roman society. This disturbs him, and therefore he returns to his old theme: "It would, however, be entirely at variance with the spirit and intention of the gospel, with the Message, if from the above we were logically to draw up socio-economic conclusions which would then have to be applied in practical politics. Not a few Christians perpetuate in this way an *economic* and *political conservatism.* The same goes for progressivist-socialistic conclusions from biblical 'data'..." (p. 34). Common property in Acts 4:32 is somehow relevant today; conservative elements in the Bible are not. He reasserts himself once again: "The biblical message of the kingdom of God does not *directly* address itself to the betterment of human society which includes, among other things, property relations. But, to be sure, it does indeed affect them!" To be sure of *what? How* does it affect them? In his answer, Troost arrives at a position of total antinomian mysticism: "In order to exercise our property rights in everyday life in the right manner, and to handle our possessions before the face of God in a way pleasing to him, nothing less is required than the merciful intervention of God, from above, through the Holy Ghost. Unless regenerated, common sense will change nothing. Renewal must come from the top down; it will not come up by itself from the bottom. Our natural reason can achieve nothing here" (p. 34).

Consider what Troost is saying. The Bible, he has said, does not provide any concrete data—no applicable kind of special revelation—in the area of economic and political affairs. Yet he is also saying that "Our natural reason can achieve nothing here." Not only is there no special revelation in social affairs, there is no general revelation on which we can rely. And so we must sit quietly and wait for the mystical intervention of the Holy Spirit to guide us in all of our private community decisions; God has seen fit to leave us without any concrete standards in such matters. This, I am compelled to conclude is antinomianism. It is strangely like the mystical brand of Christianity that is called Penielism. I am unable to see how it is even remotely Reformed.

This does not mean that Troost has no recommendations for the contemporary world. Naturally, he does not derive them from the Bible, and apparently the "common sense" of the unregenerate world has given him no aid. In fact, he does not specify any source for his recommendations. Nevertheless, he is able to conclude that "It is part of our *religion* to engage whole-heartedly in the battle for a just distribution of income (nationally, but also internationally, through foreign aid), for just property relations, and for a just economic order. It is part of our religion because we are called to it by Him who gave his life for this world..." (p. 35). Unfortunately, he does not specify which sphere of life is involved here. Does he mean merely that the church should give private charity (a teaching made explicit by the Scriptures), or does he mean that as Christians we are obligated to promote the political projects of land redistribution and foreign aid sponsored by our civil governments? If he means simply private charity, then he is saying nothing new. If he means public projects of political coercion, then he must show us on what grounds such a conclusion is justified; certainly the Bible teaches no such doctrine, and even if it did, Troost does not accept the Bible's testimony in such matters.

He goes on: "The World Council of Churches itself is sponsoring a study on a large scale dealing with society and social problems, in connection with which a book is to appear entitled *The Theological Foundation of a Christian Social Ethics*. Unfortunately it appears to me that historic Reformation Christianity ('Calvinism') is not making much of a contribution to this study and reflection" (p. 36). Naturally, the World Council can engage in such activities; it is a humanistic organization which is not bound to work within the framework

of limits established by the Bible. It has no difficulty in producing all the humanistic, secular documents that it wants to distribute. But given the presuppositions which Troost holds, that the Bible offers no concrete social proposals, and that "common sense" of the fallen world is equally helpless in aiding the thinker in his work, how could we possibly hope that "historic Reformation Christianity" would make any contribution? Troost denies the only two foundations upon which such contributions can be made: concrete special revelation on the one hand, or natural revelation granted by God in common grace. We are left without standards. Troost offers us a classic example of the truth proclaimed by the late C. S. Lewis: we castrate our men and then bid them to be fruitful.

Finally, we are told this truth by Troost: "However, it is plain, inevitable, and imperative that in our society more and more limitations be put on private property rights by social law and economic law, both in the domain of public law as well as in private community law such as internal industrial law" (p. 39). There is *absolutely nothing* in Troost's essay that would indicate that such a requirement is either plain, inevitable, or imperative. Troost does not seem to be aware of the fact that he is inserting conclusions made by modern, secular socialists and Marxists into his essay, and that he is doing it in the name of "historic Reformation Christianity." It is possible that he does not mean that socialistic legislation is increasingly imperative, although his language certainly implies this. The reason that it is not possible to say for certain what Troost means is that he stops at this point and refuses to elaborate! He gives no examples of concrete cases, and he offers us nothing to show where such limitations on private property are needed.

Troost has attempted to destroy the biblical foundations of conservatism (and, he meekly asserts, of socialism), yet he then proceeds to make what is inescapably a highly socialistic pronouncement in the name of Christianity. Worst of all, he then uses the "disclaimer" approach, so that he will not have to elaborate: he modestly says that he is unqualified to go on. "Here the theologian must stop, for we landed in the thick of concrete socio-economic problems. As a *theologian* I was allowed to go beyond sections 16 and 18 where I tried to sketch the task of the *church* and her *preaching* with respect to our subject. But now I too have come to the limit of my own competence; beyond this I am not qualified to speak" (p. 41). Troost is a professor of social ethics at the Free University of Amsterdam, and in this ca-

pacity he has denied the possibility of concrete biblical revelation in aiding us in our task of Christian social reconstruction. Yet beyond this, he says, he is not qualified to speak. He adds, of course, that we must promote some undefined "economic justice," increase foreign aid, and put even more restrictions on private property in an already frighteningly socialistic era. It is as if a professor of engineering were to tell his Dutch students that the dikes should be blown up, but in regard to any substitute for them, he protests that he is not qualified to speak.

He criticizes conservatives thusly: "One of the causes giving the church a conservative mentality—and the same holds for Christian social organizations—can be that her members keep on thinking in traditional, outdated concepts" (p. 39). But in destroying the only possible foundation for concrete Christian alternatives to such "outdated concepts" (i.e., concrete biblical revelation), Troost leaves the Christian world with nothing but mysticism. He offers us in the name of historic Reformed Christianity the whole amorphous, planless, interventionist ethic of the Dutch economy. It is a decision made on the basis of his personal preference, yet proclaimed in the name of God's kingdom; he denies, nevertheless, that those pronouncements can be based upon the special revelation of the Bible. In short, Troost's conception of Christian social ethics is without foundation, either from the point of view of the Scriptures (which he rejects as a source of data concerning social affairs) or from the point of view of modern economics and politics (which is based upon the logic of the unregenerate world, which he also rejects). Yet because this system is totally without a foundation, we are expected to accept it as "modern" and "Christian," and not part of some "traditional, outdated" world. Because it is without roots, we Christians are to call it our own.

The magnificent theoretical criticism of secular thought which Dooyeweerd began has been eroded away. Dooyeweerd cut the intellectual foundations from under all secular thinkers, but Troost and other Calvinists who stand with Troost are unwilling to replace their secular foundations with concrete scriptural examples and requirements. They have left themselves without any foundations at all. But even this is not quite true, since men cannot think or speak without some foundation. Troost and those who support him have brought back the teachings of the secular world (and, more specifically, the socialist secular world) in the name of Dooyeweerd. That such antinomianism in the social spheres can be considered a part of the Re-

formed heritage testifies to the loss of the Puritan vision in the modern world.

B. Troost's Response[2]

In the issue of *International Reformed Bulletin* which published my critique of Troost's essay (October 1967), Troost was afforded an opportunity to reply. His response was titled, "A Plea for a Creation Ethic." I have waited long enough to respond to his attempt to escape my criticisms. The reason why I am bothering to respond at this late date is that I am trying to point out the flaws in a certain kind of approach to economics. Troost was never a significant figure in the debate, either in the U.S. or in Holland, but several of his arguments and slogans have appeared in recent "liberation theology" books, even though it is highly unlikely that any prominent liberation theologian has ever heard of Troost. It is the so-called "climate of opinion," especially left-wing neo-evangelical opinion, which is the focus of my concern. This climate change began to appear in the mid-1960s, and Troost was one small gust in the hurricane of error.

One thing annoys me exceedingly. I see Christian scholars who adopt phrases such as "creation law" or "creation ethics," yet they refuse to affirm their commitment to a literal six-day creation, with 24-hour days, hours being measured as we measure them today (give or take a few nanoseconds per day). In short, they wrap themselves in the language of biblical orthodoxy, and then they climb in bed with the evolutionists. They reject explicit biblical laws in the name of a vague "creation law," and then they reject the six-day creation in the name of some sort of vague age-day hypothesis, or "framework" hypothesis, or whatever the latest "creative evolution" buzzwords are in evangelical academic circles. They believe in neither the biblical doctrine of law nor the biblical doctrine of creation. They are, in short, hypocrites. We need to understand this from the beginning. They are compromisers. Their self-appointed task is to deceive the faithful.

Troost begins with the standard response: "In the preceding article of Mr. Gary North there is what appears to me to be a misunderstanding that is as serious as it is tragic." This is the old "misunderstanding ploy." Then he goes on to demonstrate that I understood him only too well.

He rejects my accusation that he is an antinomian. Then he ap-

2. This appeared as an appendix in *The Sinai Strategy: Economics, and the Ten Commandments* (Tyler, Texas: Institute for Christian Economics, 1986).

peals to his defense of the *cosmonomic idea* to prove that he is a good, law-abiding Dutch Calvinist Christian. In short, he appeals to his membership in the school of Herman Dooyeweerd, the Dutch Calvinist philosopher. This, he supposes, should relieve the fears of his Dutch audience. Understand that his reply was first published in the Dutch Christian newspaper which had run a translation of my critical essay. His essay and mine only later were published in the *International Reformed Bulletin*.

1. Dooyeweerd's Antinomianism

My response is straightforward: *Dooyeweerd was an antinomian, too.* This is why his thought was immediately adopted by a group of radical Christians who used his philosophical system to defend the idea of Christian medieval guild socialism, or worse. The "Toronto School" of neo-Dooyeweerdians was, from the mid-1960s onward until it began to fade in the early 1970s, at the center of an anti-capitalist revival. They broke new rhetorical ground that Ronald Sider and other non-Dutch liberation theologians later travelled over. These neo-Dooyeweerdians were subsequently superseded on campus by the neo-evangelicals, but they held very similar ideas. The heart of their critique against the West and the United States in particular was that the West was built in terms of free market competitive capitalism.

Dooyeweerd never publicly broke with his radical North American followers. Thus, they have been able to wrap themselves in the flag of the "cosmonomic idea" school of philosophy, for whatever that is worth. (Outside of very tiny Calvinist intellectual circles, primarily Dutch, it is worth nothing.) At best, this is not much of a protective covering, since from the beginning, Dooyeweerd's system was successful only as a negative critique of humanists who proclaimed neutrality. It was unquestionably a brilliant and detailed critique of this pretended autonomy, but Dooyeweerd was from the beginning a dedicated antinomian, meaning a critic of Old Testament law in New Testament times. He could build nothing positive precisely because his system is strictly a negative critique.[3] It is revealed as another brand of natural law-common ground philosophy whenever it is used to construct a positive program. Ironically, he and his disciples believed that they were forever destroying the intellectual foundations of all natural law, common ground philosophies.

3. H. Dooyeweerd, *A New Critique of Theoretical Thought*, 4 vols. (Philadelphia: Presbyterian & Reformed, 1953–58). Pronounced: DOUGH-yeh-vehrd.

I was privately arguing along these lines as early as 1965. Subsequently, Dooyeweerd's essay in the collection of essays edited by E. R. Geehan, *Jerusalem and Athens: Critical Discussions on the Philosophy and Apologetics of Cornelius Van Til* (Presbyterian & Reformed, 1971), revealed just how hostile he was to biblical presuppositionalism. He replied to Van Til's criticism of his work as not going far enough in its confrontation with "natural law" doctrines. He, too, used the same old tactic: ". . . you have misunderstood what I mean . . ." (p. 74). No, Dr. Van Til understood precisely what Dooyeweerd meant—a magisterial accomplishment, given the frequently obscure nature of Dooyeweerd's verbiage. (I agree entirely with Nash's observation regarding Dooyeweerd: "Good thinking is never complimented by and should not be accompanied by poor communication."[4])

Dooyeweerd's system is a collection of philosophically empty "self-attesting" boxes (categories supposedly derived from logic, not the Bible) into which anyone can pour any content whatsoever. This is especially true of the political and economic categories. Nash is correct: "Apart from his presupposition that the cosmos is a divinely created world order, it might be objected that his law spheres are only fabrications of his own mind."[5] Most of his followers have poured socialism and antinomianism into these empty boxes. In fact, I contend that it was the very emptiness of Dooyeweerd's categories which attracted his followers—and his verbiage, which they have developed into an art. (Doubt me? Take a look at almost any book published in Canada by Wedge Books.)

Van Til put his finger on the problem when he wrote that "the entire transcendental method hangs in the air except for the fact that it rests upon the fullness and unity of truth accepted on the authority of Scripture."[6] Dooyeweerd's system hangs in the air because it does not *begin* with the presupposition of the necessity and adequacy of biblical revelation for all philosophical inquiry. In short, argued Van Til, either you start with the Bible as your standard, or you begin with man's mind as the standard. You will inescapably end up with whatever you began with presuppositionally. Dooyeweerd's whole system does not begin with the self-attesting authority of the Bible.

4. Ronald H. Nash, *Dooyeweerd and the Amsterdam Philosophy: A Christian Critique of Philosophical Thought* (Grand Rapids, Michigan: Zondervan, 1962), p. 105.

5. *Ibid*., p. 104.

6. This criticism appeared in the little-known syllabus by Van Til, *Christianity in Conflict*, Volume II, Part 3, "Biblical Dimensionalism," a 59-page, single-spaced critique of Dooyeweerd and the Amsterdam school.

Therefore. . . .

Dooyeweerd was upset by this "therefore." Yet his response shows perfectly well how accurate Van Til's criticism had been. He categorically denied that any critique of humanism's presuppositions should begin with a confession of Christian presuppositions: ". . . this transcendental critique is obliged to *begin* with an inquiry into the inner nature and structure of the theoretical attitude of thought and experience *as such* and *not* with a confession of faith. In this first phase of the critical investigation such a confession would have been out of place" (p. 76). He begins with the autonomous mind of man. This is why Dooyeweerd was a scholastic in his methodology, despite his attempt to refute all medieval scholasticism by means of his critique. He shared humanism's methodological presuppositions concerning the obligation of good, rational men to begin debating without any reference to the Bible and the God who wrote it. Dooyeweerd's use of a non-biblical concept of the "heart" was the very heart of his humanism and antinomianism.[7] Van Til's response to Dooyeweerd's essay returns to his original theme, namely, that Dooyeweerd had given away the presuppositional case for biblical truth by his methodological starting point.

Troost argues that he had written his dissertation against the antinomianism of situation ethics. The question is: Did he simply substitute another Iprand of antinomianism? My answer was (and is), "Yes, he did." Either you affirm revealed biblical law as a permanent standard,[8] or you affirm humanistic laws, of whatever variety. It is this

7. It is not simply that Dooyeweerd's exposition is incomparably verbose and filled with jargon; it is that it is devoid of revelational content, including biblical law. But Van Til was not concerned about Dooyeweerd's implicit antinomianism; he was concerned about the lack of biblical content for Dooyeweerd's philosophical categories. Sadly, Van Til was himself almost as weak on the question of biblical law as Dooyeweerd was. He was not a theonomist, which is why he was always unwilling to promote publicly the writings of Rushdoony, and why he expressed reservations in private concerning Rushdoony's approach—and, by implication, the approach of the whole Christian Reconstruction movement. Rushdoony was taking Van Til's presuppositionalism into areas that made Van Til nervous; Van Til carefully avoided topics outside of traditional apologetics. Christian Reconstruction did not exist in a finished outline in 1971, when Jerusalem and Athens was published; not until Rushdoony's *Institutes of Biblical Law* appeared in 1973 did the capstone of the system appear. Van Til was always enthusiastic about Greg Bahnsen's apologetics, but he remained judiciously silent about Bahnsen's *Theonomy in Christian Ethics* (1977). Van Til's writings were necessary for the creation of the Reconstruction movement (presuppositionalism), but not sufficient (biblical law). In this sense, the Reconstructionists have criticized Van Til in much the same way as Van Til criticized Dooyeweerd: he did not go far enough in his adherence to biblical revelation.

8. Greg L. Bahnsen, *By This Standard: The Authority of God's Law Today* (Tyler, Texas: Institute for Christian Economics, 1985).

radical dichotomy which humanists, dispensationalists, and Dooyeweerdians prefer not to accept. It is their common ground.

2. Troost's Jargon

The heart, mind, and soul of the Dooyeweerdian brand of humanism can be seen in the following paragraph in Troost's response. Be prepared for the usual incoherent jargon; Dooyeweerdians are incapable of writing, either in English of Dutch, without this jargon. It serves them as "ink" serves the escaping squid: a cover which hides them from their attackers.

> As for so-called social ethics, let me explain it in the following way: The question of what justice is in the concrete case and of what love to my neighbor means, cannot any longer be viewed as a metaphysical 'given'—as all forms of idealistic ethics suggests. However, the content of justice and love in the concrete case hie et nunc is not found literally in the Bible as a recipe for all time. But here the biblical-a[p]riori of faith in the divine creation order must ***function*** in the philosophical and social investigation. In so far as this has in broad lines and outline form led to preliminary results in the philosophy of the cosmonomic idea, this philosophy has shown that in the concrete giving of form to justice and love cultural-historical basic possibilities and the regulating function of faith always play roles in a normative way (p. 54).

Got that? Let me assist you. First, there are Troost's "pre-theoretical presuppositions":

1. I am a member of a church which believes in the Bible.
2. If the elders suspect that I do not believe in the Bible, I might get myself excommunicated. This would not be good; it would take away my influence.
3. I teach in a humanist institution; so if I go around talking about the eternal standards of biblical ethics, I might get fired, and I would unquestionably be ridiculed. This would also not be good.
4. If I adopt a lot of Dooyeweerdian verbiage, I can get out of my dilemma. After all, he got out of his.

We are now ready for a translation of the verbiage:

1. There are no eternal standards of right and wrong.
2. The Bible does not literally speak to concrete historical situations in terms of fixed ethical standards because there are no fixed ethical standards applicable to concrete historical circumstances.

3. There is a "creation order." It is an empty box. Into it I am entitled to pour anything that appeals to me, as a respectable, tax-financed intellectual.
4. The "cultural historical basic possibilities" tell me how much socialist drivel I can get unsuspecting Christian laymen to swallow in the name of Jesus.

It should be clear why Troost and the cosmonomic idea enthusiasts have had no influence anywhere outside of a very restricted circle of Dutch readers. Dutch-Christian intellectuals respect academic scholarship, especially pseudo-Germanic scholarship, almost to the point of idol worsip. They frequently model their writing style after German pagan scholars. Herman Ridderbos' orthodox book, *Paul* (1975), is a good example. Dooyeweerd and his followers have fallen into the Germanic verbal bog. Their style is best described as a form of verbal constipation. They are enmeshed in verbiage which cannot be translated into English, let alone translated into action. They have no consistent economic program. They just have verbiage.

Troost can wax incoherent—he thinks he is waxing eloquent—promoting jumbled economic programs that are borrowed from modern Keynesian socialism, but to what effect? He is unable to distance himself from the run-of-the-mill political liberalism of our era. He is worse than speechless; he is a motor-mouth. Noise keeps coming out, but nothing principled. His program will be swallowed up in the flux of historical change. He offers nothing uniquely Christian, uniquely socialistic, or uniquely anything positive.

Do I exaggerate? Am I unfair? Judge for yourself:

> A detailed elaboration of this is not given in my essay. I did cite certain results: i.e., that we, under the guidance of what we learn in Holy Scripture, must see and experience our earthly property rights as *relative* both in regard to God as well as in regard to our fellow men. In other words, in our 'unraffling' we have to maintain a religious distance, or, as it is better phrased, as not possessing our possessions (I Corinthians 7:29–31). However, one cannot deduce from this religious *basic attitude* any concrete right of property, as many 'progressive theologians' think they can do. This can be done neither in civil property rights, nor in public government rights, nor yet in rights of private enterprise. These concrete and temporal relations of justice lie on the niveau [?] of our temporal earthly life in which that which is concretely just hie et nunc and that which is love for neighbor *in concreto* is co-determined by the normative social, economical and other principles. These principles are not—as the natural law tradition thinks—*given* as positively formulated prescriptions

> but must be searched out from the complex normative *structures* of the situation (p. 54).

Do you remember the story of the king who was led by his own vanity to buy a set of "invisible clothes" by a bunch of "con artists"? Then he went out in his new clothes to lead a parade. No adult in the awe-struck crowd would admit that the king was stark naked. Finally, a little boy asked his father why the king was wearing no clothes. His father saw the light, and yelled, "The king has no clothes!" The king's vanity was given a decisive blow by the howls of laughter that followed the innocent lad's remark. Dooyeweerd, for all his competence in exposing the myth of neutrality in humanists, philosopher by philosopher, was the self-deceived victim of his own academic pride. He adopted a non-biblical starting point—a reference point devoid of biblical content, which he called the "heart"—and he also adopted humanism's hostility to biblical law. So have his followers. Troost is a good example. I prefer to serve as the little boy for the petrified crowd of Dutch Calvinists who stand in awe of the Dooyeweerdian verbiage, and who seem incapable of saying out loud: "These academic con men are naked!"

Conclusion

Troost feels inhibited by Mosaic law. So do all sinners. But instead of repenting, and calling for the reconstruction of society in terms of God's law, Troost rejects biblical law. It is not normative in his system. "What is normative is the *ethical-religio basic attitude* of early Christianity, because this is required everywhere in the great love commandment of the Bible, including the Mosaic legislation" (p. 56). A man can get away with murder in the foggy mists of the "ethico-religio basic attitude" of *any* religion or philosophy. But Troost does not want to get away with murder. He wants to get away with guilt-manipulation: "But in this Bible history we have to do with a *fundamental religious attitude of christian mentality* which must be ready *every* day and under *all* circumstances to make a happy and voluntary renunciation of money and goods on behalf of those who are in need..." (p. 56). Under *all* circumstances? How are we to know *when*? These proponents of progressive taxation and opponents of the 10% tithe never tell us—the better to manipulate us.

Troost's original essay is irrelevant. It was irrelevant in 1966, and it is irrelevant today. It was simply symptomatic of a crisis in Western

civilization. Those who should be preparing an intellectual and moral framework for comprehensive reform along biblical lines have joined the enemies of Christ, and have marched in the parade of statism. Why? Because they hate biblical law more than they hate humanism. This, above all, constitutes the crisis of twentieth century Christianity. Christians have dressed themselves in the rags of humanism and have imagined themselves in robes of splendor.

Update: 1985

I have included this appendix in order to call the reader's attention to a type of economic analysis which has become extremely popular since 1966. There is almost nothing in Troost's essay which was not implicit or explicit a decade later in Ronald Sider's *Rich Christians in an Age of Hunger.* The argumentation is almost identical: moralistic, vague, guilt-inducing, statist, and explicitly antinomian. Troost's essay is an example of a genre which has become the standard fare in neo-evangelical circles, whether in *The Other Side, Sojourners,* or some other pro-state, pro-enforced wealth redistribution magazine published in the name of Jesus.

What should also be apparent is that my response in 1967 is almost identical in approach to David Chilton's response to Sider in *Productive Christians in an Age of Guilt-Manipulators* (1981). The emphasis is on the specific revelation of God in the Bible, especially in Old Testament law. Troost's rejection of biblical law and of the whole concept of Bible-based blueprints for economics is exactly the line pushed by Sider, Evangelicals for Social Action, and the other neo-evangelical liberation theologians.

It is clear why Troost and his neo-evangelical clones are so hostile to the idea of biblical blueprints: the Bible unquestionably promotes free market institutional arrangements. This is why the three other authors in Clouse's book, *Wealth and Poverty: Four Christian Views of Economics* (InterVarsity Press, 1984)[9] all agreed that the Bible must not be appealed to with respect to specific social and economic institutional arrangements, and why my essay kept returning to the theme of the ethical requirement of abiding by Old Testament principles. I was derided in the symposium for appealing to the Book of Deuteronomy (p. 66). Anyone who has read Deuteronomy should understand why I was derided: it promises economic and other external

9. Robert G. Clouse (ed), *Wealth and Poverty: Four Chistian Views of Economics* (Downers Grove, Illinois: InterVarsity Press, 1984).

blessings to societies that conform to the external requirements of Old Testament law.

In short, the terms of the debate have not changed in four decades, nor are they likely to change in the next two hundred years. The issue is clear: God's word or man's word, God's law or man's law, God's blueprints or man's blueprints. Take your pick. Or as Elijah put it, choose this day whom you will serve. It is clear enough to see who serves God in this century, and who serves Baal. It shows even in the mundane academic discipline of economics.

APPENDIX P

THE HOAX OF HIGHER CRITICISM

> *For had ye believed Moses, ye would have believed me, for he wrote of me. But if ye believe not his writings, how shall ye believe my words?*
>
> JOHN 5:46–47

It is not just Jews who refuse to take these words seriously; it is also the vast majority of those who graduate from theological seminaries today. With few exceptions, seminaries are staffed by professors of literature rather than professors of Christ. They have adopted a view of the Bible which says that the biblical texts reveal gross errors on the part of the Bible's writers and editors. The critics refer to the Bible as a myth-filled book. These classroom skeptics and their intellectual predecessors have labored for over a century to remove Christians' confidence in the accuracy of the Bible. Their personal goal, above all other goals, is to escape the final judgment of the God who has revealed Himself clearly. They comfort themselves while discomforting their Bible-believing students with this syllogism: "No permanent Bible, no permanent law; no permanent law, no permanent judgment." But this absence of God's judgment must also be asserted with respect to history; higher criticism of the Bible plays a role in this dogma, too.

There is little doubt that the successful assault on Christianity in the late-nineteenth century came from two sources: Darwinism and higher criticism of the Bible. The latter was exported primarily from German universities. The Christian West has been under guerilla attack by German scholarship for about two centuries. Prussians invented the government-supported kindergarten and the Ph.D degree, two of the most insidious inventions of the modern world. (I have long appreciated the observation by literary critic Edmund Wilson

regarding the absurdity of the oppressive Ph.D system. The world would be far better off today "if, at the time of the First World War, when we were renaming our hamburgers Salisbury Steak and our sauerkraut Liberty Cabbage, we had decided to scrap it as a German atrocity.")[1]

Academic higher criticism of the Bible was nourished in its maturity in the same European corner of the academic world. It was promoted most successfully by intellectually disciplined German scholars in the nineteenth century. These men were dedicated to the destruction of orthodox Christianity. Their primary goal was to discover defects in the existing texts of Scripture, as well as to discover internal inconsistencies in the Bible's overall message. This strategy was designed to discredit the Christian world's faith in a permanent standard of righteousness. Higher criticism was the spiritual legacy of the Enlightenment, as one of its spiritual heirs frankly admits: "The rationalist Enlightenment radicalized the claim of reason and history; as a result it placed the claims of religion outside the realm of reason. In this division Orthodox theology lost its foundations in history. The cleft between reason and history triumphed among the learned—including theologians—and removed the basis of orthodoxy's epistemology."[2]

A. A War for English Civilization

What is not generally recognized, however, is that biblical higher criticism had its origin in the English- speaking world. It was English Deism rather than German scholarship that laid the intellectual foundation of modern higher criticism. Even before Deism, certain aspects of the critical attack on the Bible, especially the Old Testament, had begun with Renaissance humanism.[3] R. K. Harrison traced back to the mid-seventeenth-century rationalist political philosopher Thomas Hobbes the idea that the Pentateuch was compiled from much earlier sources written by Moses.[4] Edgar Krentz was an enthusiastic de-

1. Edmund Wilson, *The Fruits of the MLA* (New York: New York Review Book, 1968), p. 20. The MLA is the Modern Language Association.

2. Edgar Krentz, *The Historical-Critical Method* (Philadelphia: Fortress Press, 1975] 1977), p. 21.

3. A little-known and unfortunately neglected study of the history of higher criticism is Henning Graf Reventlow, *The Authority of the Bible and the Rise of the Modern World* (London: SCM Press, [1980] 1984), Pt. I.

4. Roland Kenneth Harrison, *Introduction to the Old Testament* (Grand Rapids, Michigan: Eerdmans, [1969] 1974), pp. 9–10.

fender of higher criticism against what he describes as the dogmatic church's "fear of change, fear of losing the basis for certainty of faith, and fear of posing questions in the area of authority."[5] He, too, identified English Deism as the source of this intellectual development. "The eighteenth-century Deists treated the Bible with freedom when it did not, in their lights, accord with reason. For example, they argued that Isaiah was composite, the Gospels contradictory, and the apostles often unreliable."[6]

The Deist's attack on the divine authority of the Bible was not simply a product of the scholar's dusty study. It was closely associated with warring social and intellectual movements of the day. James Barr's observations are very important in understanding the roots of higher criticism and also in understanding the revival of biblicalliteralism as a social force in the United States, especially after 1960. The link between social action and biblical hermeneutics has been missed by most historians. Barr, following Reventlow's lead, did not make this mistake:

> Church and state formed a single continuum, and political and theological questions were seen as interdependent. Questions about power and legitimacy rested in a high degree upon exegetical and interpretative ideas. In this the Old Testament—Reventlow's own specialism—was of primary importance. Even if the New Testament was the document of the earliest Christianity, the way in which the other collection of books form a yet older age, the Old Testament, was related to it. For it was the Old Testament, as it seemed, that offered guidance about king and state, about a commonwealth organized under divine statutes, about law and property, about war, about ritual and ceremony, about priesthood, continuity and succession. All of this was a disputed area from the Reformation onwards: because these were controversial matters in church and state, they generated deep differences in biblical interpretation. It was precisely because the Bible was assumed on all hands to be authoritative that it stimulated new notions about its own nature. It was because men sought answers to problems of life and society, as well as of thought and belief, that the Bible stimulated 'critical' modes of understanding itself.[7]

The heart of English Deism's attack on Christian orthodoxy was its faith in Newtonian natural law and hostility to Old Testament law and Old Testament prophecy. "If one could write off the Old Testament as testimony to a pre-Christian religion and vindicate the New

5. Krentz, *op. cit.*, p. 15.
6. *Ibid.,* p. 16.
7. James Barr, Foreword, in Reventlow, *Authority of the Bible*, p. xiii.

Testament in another way (e.g. through its accord with the law of nature) Christianity could still be defended, albeit as a pedagogical means to the moral illumination of mankind."[8] Once the denial of the indissoluble unity of the Bible became common, the next step was easy: the denial of the need for an infallible New Testament in Christianity.

Reventlow provided evidence of the political aspects of the war for and against the infallibility of the Bible. He provided over 400 pages of text and 200 pages of endnotes to demonstrate, among related themes, that "the political thought of the sixteenth, seventeenth and eighteenth centuries continually sought its models and arguments within the Bible, and the approach of each particular thinker in question provided the real criterion for the analogies drawn between the reconstructed biblical model and the principles which were normative for shaping the society of his time."[9] The Deists launched their war on the Old Testament in an attempt to substitute natural law for biblical law. Anyone who fails to understand the ethical nature of this intellectual conflict does not understand the history of biblical higher criticism. The attack on the Old Testament was a fundamental aspect of the coming of modern humanist civilization.

> Only as a result of the attack by Deists on the authority of Scripture (preparations for which were made, against their own intentions, by Latitudinarians, Locke and Newton), an attack which they made step by step, did the legacy of antiquity in the form of natural law and Stoic thought, which since the late Middle Ages had formed the common basis for thought despite all the changes of theological and philosophical direction, remain the one undisputed criterion. This produced a basically new stage both in the history of ideas and in the English constitution. This position already contains the roots of its own failure, in that the consistent development of the epistemological principles of Locke and Berkely [sic] by Hume soon showed that its basic presuppositions were untenable. However, two irreversible and definitive developments remained, which had made an appearance with it: the Bible lost its significance for philosophical thought and for the theoretical foundations of political ideals, and ethical rationalism (with a new foundation in Kant's critique) proved to be one of the forces shaping the modern period, which only now can really be said to have begun.[10]

Reventlow pointed out that higher criticism has faded in importance since the end of the Second World War. In the immediate post-

8. Reventlow, *ibid.*, p. 398.
9. *Ibid.*, p. 413.
10. *Ibid.*, pp. 413–14.

war era, biblical criticism was an important aspect of Protestant colleges and seminaries. No longer. "Given a predominant concern with the present and its seemingly urgent practical problems, which claim almost exclusive attention," he writes, "historical criticism and exegesis have come to take very much a back place."[11]

B. Burying the Dead

Why, then, should I devote an appendix to this topic? Because of a parallel process: while modern humanism has visibly begun to fragment, taking with it modern liberal theology, there has been a recovery of interest within the evangelical world of real-world questions that are best summarized under the general heading, "Christian worldview." The implicit dualisms of modern fundamentalism—Old Testament vs. New Testament, law vs. grace, letter vs. spirit, church vs. state, Israel vs. the church, eternity vs. history, heart vs. mind, dominion vs. rapture, culture vs. kingdom—have begun to be either discarded or at least seriously criticized from within the camp.[12] The Christian world's recovery of a vision of ethical unity, of a comprehensive world-and-life view, is basic to any workable strategy of Christian reconstruction. In this intellectual and emotional process of recovering Christianity's lost unity of vision, we are required to return to the original source of the problem: men's loss of faith in the unity of God's word.

There is an old political slogan, "You can't beat something with nothing." Throughout the twentieth century, the Christian world has found itself in the position of battling something—self-confident humanism—with nothing: a philosophy of ethical dualism, a kind of Christian gnosticism.[13] This was obvious to everyone after the Scopes' "monkey" trial of 1925.[14] (In the early church, this dualistic philoso-

11. *Ibid*., p. 1.

12. On the Israel-church dichotomy, see William E. Bell, A Critical Evaluation of the Pretribulation Rapture Doctrine in Christian Eschatology (Ph. D dissertation, New York University, 1968). See also John F. MacArthur, *The Gospel According to Jesus* (Grand Rapids, Michigan: Zondervan Academie, 1988). This book sold over 100,000 copies in hardback within a year of its publication. The survival of the older dualism is best represented by Dave Hunt, *Whatever Happened to Heaven?* (Eugene, Oregon: Harvest House, 1988).

13. Douglas W. Frank, *Less Than Conquerors: How Evangelicals Entered the Twentieth Century* (Grand Rapids, Michigan: Eerdmans, 1986).

14. George Marsden, *Fundamentalism and American Culture: The Shaping of Twentieth-Century Evangelicalism, 1870–1925* (New York: Oxford University Press, 1980), ch. 10: "The Great Reversal.

phy which pitted the Old Testament against the New Testament was correctly identified by the church as heretical: Marcionism.) But the roles are now being reversed. Ever since the assassination of John F. Kennedy in November of 1963, Western humanism has steadily lost both its vision and its "can-do" confidence.[15] A similar loss of confidence also appeared in the mid-1980s behind the Iron and Bamboo Curtains. The implicit and inescapable dualism of all post-Kantian thought—fact vs. meaning, science vs. ethics, *phenomenal* vs. *noumenal*[16]—became a growing intellectual problem after the 1880s, and it could not, like Humpty Dumpty, be put back together again.[17] The social and political effects of this accelerating intellectual disorientation became clear to most social observers after 1963. Meanwhile, the appearance of Van Til's presuppositional apologetics in the 1940s[18] the revival of biblical creationism after 1960,[19] and the preliminary recovery of the Puritan vision of the earthly victory of God's kingdom have combined to produce a new intellectual perspective: Christian reconstruction.

Basic to this reversal has been the recovery of confidence by Christians in the reliability of the whole Bible. They have been presented with a growing body of evidence that Darwinism is a hoax. It is time for them to recognize that biblical higher criticism is an even older hoax, though related philosophically to Darwinism.

C. Techniques of Higher Criticism

"Lower criticism" is the technical literary exercise of determining which of the existent ancient manuscripts of the Bible are authoritative and therefore belong in the canon of Scripture. Higher criticism, using similar techniques of analysis, and going mad in the process, argues that nothing in the canon of the Bible is what it appears to be, that the Creator God did not directly or uniquely inspire any of it, and that the scribes who assembled its component parts centuries after the fact were pathetic louts who were unable to follow the logic of any

15. Gary North, *Unholy Spirits: Occultism and New Age Humanism* (Ft. Worth, Texas: Dominion Press, 1986), Introduction.

16. Richard Kroner, *Kant's Weltanschauung* (Chicago: University of Chicago Press, [1914] 1956).

17. H. Stuart Hughes, *Consciousness and Society: The Reorientation of European Social Thought, 1890–1930* (New York: Knopf, 1958).

18. Cornelius Van Til, *The New Modernism: An Appraisal of the Theology of Barth and Brunner* (Philadelphia: Presbyterian & Reformed, 1946).

19. Henry M. Morris and John C. Whitcomb, Jr., *The Genesis Flood: The Biblical Record and Its Scientific Implications* (Philadelphia: Presbyterian & Reformed, 1961).

argument, or keep names straight for three consecutive pages, or even imitate the style of the previous lout who first made up some imaginary story and included it in an earlier manuscript. All of these "discoveries" are reached by means of supposedly precise literary techniques.

These textual critics regard the Bible as a kind of novel, so they apply to the study of the Bible techniques that are used in the literary criticism of fiction. Again, let me cite Wilson's comments on the absurdity of these techniques when applied to novels, let alone the Bible. He refers to an edition of Hawthorne's *Marble Faun*, edited by the University of Virginia's specialist in Elizabethan bibliography, Fredson Bowers. He did not spare Mr. Bowers.

> But the fourth volume of the Centenary Edition of the works of Nathaniel Hawthorne, which contains only *The Marble Faun*, is the masterpiece of MLA bad bookmaking. I have weighed it, and it weighs nine pounds. It is 9 × 6⅛ inches, and 2⅜ inches thick.... *The Marble Faun*, since it is mainly Mr. Bowers's work, embodies the spirit of Mr. Bowers as no other of these volumes does. Of its 610 pages, the 467 of Hawthorne are weighed down by 89 pages of "Textual Introduction" and 143 pages of "Textual Notes." There are 44 pages of historical introduction preceding the textual introduction. We are told in these introductions, in accordance with the MLA formula, that, in the course of writing the book, the author, as novelists often do, changed the names of certain of the characters; and that many of the descriptions in it—as has been noted, also a common practice—have been taken from his Italian notebooks. This information is of no interest whatever. Nor is it of any interest to be told that Hawthorne's wife corrected certain inaccuracies in the Roman descriptions and otherwise made occasional suggestions, which Hawthorne did not always accept. It has evidently been trying for Mr. Bowers to find that, in the original manuscript, the author had been so inconsiderate as usually to make his changes "by wiping out with a finger while the ink was still wet and writing over the same space." But the places where these smudges occur have been carefully noted and listed. (It seems to me that this whole procedure meets an insurmountable obstacle when no corrected proofs survive that show the revisions of the author.)[20]

Wilson then asked the obvious question: "Now, what conceivable value have 276 pages of all this? Surely only that of gratifying the very small group of monomaniac bibliographers." He concluded, "The indiscriminate greed for this literary garbage on the part of universities is a sign of the academic pedantry on which American Lit. has been stranded."[21]

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20. Wilson,·*Fruits of the MLA*, pp. 18–19.
21. *Ibid.*, p. 20.

All of this is both accurate and amusing. But these same techniques of literary and textual criticism, when applied to biblical texts by monomaniacal German pedants and their epigone Anglo-American imitators, have for over a century undermined people's faith in the integrity of the Bible all over the world.[22]

D. Criticizing Textual Criticism

The methods used by higher critics are circular: they use their colleagues' reconstructed literary texts to reconstruct the biblical past, and they use their own newly reconstructed biblical past to further reconstruct the biblical texts. On and on the academic game goes, signifying nothing except the futile purposes to which very dull people's minds can be put.

These literary techniques are highly complex, yet amazingly shoddy. The practitioners agree on very little; they reach no testable conclusions; and their required techniques absorb inordinate quantities of time to master. Liberal Bible scholar Calum Carmichael put it mildly when he warned his readers:

> Historical and literary criticism is undeniably useful when working with ancient sources, but not only has it limitations, it sometimes leads nowhere. One manifest restriction in its application to most biblical material is that the historical results hypothesized cannot be corroborated. The speculative character of most such results is easily overlooked because the historical method is so deeply entrenched in scholarly approaches. With a little distance, we can see just how shaky the historical method is.... The procedure is a dispiriting one, dull to read, difficult to follow, and largely illusory given the paucity of the results and the conjectured historical realities dotted here and there over a vast span of time. Its most depressing aspect is the no doubt unintentional demeaning of the intelligence of the lawgiver who was responsible for the presentation of the material available to us. E. M. Forster, struck by the cavalier way in which we treat the past, attributed the attitude to the fact that those who lived then are all dead and cannot rise up and protest.[23]

He was being much too kind. The scholars' "demeaning of the intelligence of the lawgiver who was responsible for the presentation of

22. Krentz freely admitted of literary criticism that "The four-source theory of Pentateuchal origins and the two-source theory of the Synoptic interrelationships are its major results. Literary (source) criticism has achieved a more sharply contoured profile of the various sources and books, and the authors who stand behind them. It is indispensable for any responsible interpretation of the Bible." Krentz, *Historical-Critical Method*, p. 50.

23. Calum M. Carmichael, *Law and Narrative in the Bible: The Evidence of the Deuteronomic Laws and the Decalogue* (Ithaca, New York: Cornell University Press, 1985), p. 14.

the material available to us" is all too intentional, for that Lawgiver is God Almighty, who will judge every man on judgment day. Higher critics are determined to deny that such a cosmic Lawgiver exists, and they do their best to make His laws seem like an incoherent collection of disjointed and self-contradictory pronouncements, a judicial jumble compiled by a series of editors who apparently could not keep clear in their minds anything that was written in the text in front of them that was farther back or farther forward than three lines. Somehow, these deceptive ancient masters of language and textual subtleties could not keep any argument straight, or remember the plot line of even a one-page story. Their heavy-handed attempts to revise the ancient texts for their own contemporary purposes were so badly bungled that they succeeded only in so distorting the text that no careful reader could possibly believe that God had revealed the Pentateuch to one man, Moses.

It is not the Pentateuch that is disjointed. It was not the hypothetical "later editors" who could not keep things straight in their minds. Rather, it is the paid professional army of higher critics. I appreciate C. S. Lewis' comments, as a master of medieval and early modern English literature, regarding the ability of textual critics to understand their texts: "These men ask me to believe they can read between the lines of old texts; the evidence is their obvious inability to read (in any sense worth discussing) the lines themselves. They claim to see fern-seed and can't see an elephant ten yards away in broad daylight."[24]

E. Apostate Deceivers

Higher critics present the Bible as a poorly assembled patchwork of lies and myths, and then they add insult to injury by arguing that their debunking operation somehow elevates our view of the Bible. For example, the internationally respected (unfortunately) Bible scholar G. Ernest Wright and his co-author argue that in the Bible, "What is important is what this great Lord has done."[25] But as soon as anyone raises the obvious question, "What exactly has God done?" the authors run for the cover of symbolism and supposed myth, in order to escape the Bible's detailed account of what God has done:

> This furnishes a clue to our understanding of the prehistoric material preserved in Genesis 1–11. These traditions go far back into the dim and

24. C. S. Lewis, *Christian Reflections*, ed. Walter Hooper (London: Geoffrey Bles, 1967), p. 157. The essay is titled, "Modern Thought and Biblical Criticism."

25. G. Ernest Wright and Reginald H. Fuller, *The Book of the Acts of God: Christian Scholarship Interprets the Bible* (Garden City, New York: Doubleday, 1957), p. 36.

> unrecoverable history of Israel; they are the popular traditions of a people, traditions which in part go back to a pre-Canaanite and North Mesopotamian background. For this reason there is little question of objective history here. We are instead faced with the question of why the old traditions were written down. What was the purpose of the writers who preserved them for US?[26]

Notice the shift in their argument. They tell us on the one hand that the Bible is a historical book, unique in the ancient world. The Bible's view of God rests squarely on what God has done in history. But when the key chapters that describe the creation of the universe and the Fall of man are brought up, as well as the Noachic flood and the tower of Babel, the authors immediately shift their focus away from what the Bible says about God; they shift their concern to what the Hebrews came later to *believe* about God. Their focus shifts from God to man. This is the essence of humanism. The fact is, their focus *began* with man rather than God-autonomous man.

The humanist scholar insists that we cannot deal with God, who is not an objective fact of history that can be studied. We can only deal with *men's recorded thoughts about God*, which are objective facts of history that can be studied. Van Til summarized this humanistic impulse: "Men hope to find in a study of the *religious consciousness* something that has never been found before. They hope to find out what religion really is. The claim is made that now for the first time religion is really being studied from the inside."[27] Man's religious consciousness becomes determinative in history, not the acts of God. Wright and Fuller should have titled their book, *The Book of the Surviving Early Writings of Two Religious Groups, Judaism and Christianity, Regarding the Acts of a God Who Does Not Really Interact With History.* Had they done so, of course, their academic charade would have been obvious from the beginning.

1. Historical Resurrection and Final Judgment

It is not only the creation of man and his subsequent fall from grace that must be discreetly covered up by the blanket of hypothetically objective history; it is also the resurrection of Christ. Both sin and redemption must be discussed apart from biblical revelation, for if the Bible's account of sin and redemption is taken seriously, then

26. *Ibid.*, p. 24.

27. Cornelius Van Til, *Psychology of Religion*, vol. IV of *In Defense of Biblical Christianity* (Phillipsburg, New Jersey: Presbyterian & Reformed, 1971), p. 7.

the issue of God's final judgment once again becomes a fundamental problem. This is the problem that autonomous man wishes most of all to avoid. So, the resurrection is relegated to the mythic past, and once again the authors focus on what a small group of people have thought about this non-historical event.

> Finally, what shall we say about the resurrection of Christ, as understood in the New Testament? This cannot be an objective fact of history in the same sense as was the crucifixion of Christ. The latter was a fact available to all men as a real happening, and pagan writers like Tacitus and Josephus can speak of it. But in the New Testament itself the Easter faith-event of the resurrection is perceived only by the people of the faith. Christ as risen was not seen by everyone, but only by the few. Easter was thus a reality for those in the inner circle of the disciples and apostles. That is not an arena where a historian can operate. Facts available to all men are the only data with which he can work, the facts available to the consciousness of a few are not objective history in the historian's sense.[28]

They distinguished the "real happening" of the crucifixion from the "faith-event" of the resurrection, which was an event of a very different character. Only "facts available to all men"—meaning facts that are implicitly possible for all men to have seen—are "real happenings." This means that the resurrection was somehow not a fact that in principle all men might have seen and verified, in the same way that they could have seen and verified the crucifixion. In other words, the resurrection was not a "real happening," although the calculating deceivers who wrote *The Book of the Acts of God* were too wise to say this blatantly, for fear of tipping their hand. They argue that the resurrection was therefore not an objective historical event, not "an objective fact of history."[29]

The Bible tells a very different story. The fact of Christ's resurrection was sufficiently objective that Paul appealed to it as a commonly known fact when he defended himself in King Agrippa's court: "Why should it be thought a thing incredible with you, that God should raise the dead?" (Acts 26:8). He went on to remind skeptical Festus: "For the king knoweth of these things, before whom also I speak freely: for I am persuaded that none of these things are hidden from him; for this thing was not done in a corner" (Acts 26:26). And when Paul finished, Agrippa said to him: "Almost thou persuadest

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28. Wright and Fuller, *Acts of God*, p. 25.

29. On the anti-historical concept of the resurrection-event or faith-event in modern neo-orthodox theology, see Cornelius Van Til, *Christianity and Barthianism* (Philadelphia: Presbyterian & Reformed, 1962), pp. 92–113.

me to be a Christian" (Acts 26:28). But the higher critics are not even remotely persuaded. They see their man-appointed task to confuse Christians about the reliability of the orthodox faith, as well as to confuse non-Christians who might otherwise be persuaded.

2. A New Terminology

So, the critics have invented new terminology, the better to muddle the perceptions of their readers. For example, following the lead of Immanuel Kant's Protestant prophet Karl Barth, they substitute a grotesque hyphenated word like *faith-event* for the decisive and incriminating word, *fact*. "Hence we have to view the resurrection in the New Testament as a faith-event, unlike other events, which is nevertheless real to the Christian community. It testifies to the knowledge that Christ is alive, not dead. The living Christ was known to be the head of the Church; and his power was real. The process, the how of Christ's transition from death to the living head of the new community, and the language used to describe that transition ('raised the third day,' 'Ascension,' 'going up,' 'sitting on the right hand of God')—these are products of the situation. They are the temporal language of the first-century Christians. To us, they are symbols of deep truth and nothing more, though they are symbols that are difficult to translate."[30]

Of course these are difficult symbols to translate, meaning *difficult to translate into historical categories that are acceptable to liberal humanism*, because "raised the third day" and "going up" meant exactly the same thing to a first-century Christian as they mean today. These hell-bound apostate scholars suffer from the problem Felix suffered when he heard the gospel from Paul, *fear*, for Felix trembled (Acts 24:25). They want to avoid thinking about the Bible's message of salvation, for it is also the message of God's inevitable final judgment. The biblical message of salvation is the only alternative to the biblical message of eternal torment.[31]

Higher critics have become the ultimate myth-makers by proclaiming the existence of a set of high ideals that are somehow associated with biblical myths (i.e., hoaxes). After telling the reader that the early chapters of Genesis are not historical, but simply symbolic, the authors assure us concerning the story of Adam's fall: "But let us not

30. Wright and Fuller, *Acts of God*, p. 25.

31. Gary North, Publisher's Epilogue, in David Chilton, *The Great Tribulation* (Ft. Worth, Texas: Dominion Press, 1987).

be deceived by the simple story form of presentation. The greatness of this story is its insight into the inner nature of man and the simple manner in which it presents that insight."[32] They first presented evidence that, if true, any sensible reader—i.e., any non-Ph.D-holding higher critic—would recognize clearly as evidence that the Bible is a gigantic hoax, and then they spoke as though this "new, improved" understanding of the Bible will lead society to higher ideals and moral righteousness. They are classic examples of C. S. Lewis' description of modern humanist culture: "In a sort of ghastly simplicity we remove the organ and demand the function. We make men without chests and expect of them virtue and enterprise. We laugh at honour and are shocked to find traitors in our midst. We castrate and bid the geldings be fruitful."[33]

What the higher critics want us to believe in is the world according to Immanuel Kant, a dialectical realm composed of two utterly separate worlds: the phenomenal world of historical facts—meaningless historical facts apart from man's interpretations of them—and the trans-historical noumenal world of human meaning—utterly timeless, non-cognitive meaning—that is completely distinct from the phenomenal world of measurable cause and effect.[34] Autonomous man stands at the intersection of these two dialectical realms, and somehow he creates meaning for himself. God is given homage only as the unknown god of the Greeks (Acts 17:23), and even worse, as the inherently *unknowable* god. An unknowable god is the only god who is acceptable to modern autonomous man, for an unknowable god presumably will not bring final judgment to inherently uninformed and uninformable finite mankind. We must never forget: *the primary goal of self-proclaimed autonomous man is to escape God's final judgment*. So, in order to escape this judgment, the higher critics spin a web of pompous verbiage that they hope and pray—well, at least they hope—will protect them from the eternal consequences of their God-defying rebellion.

3. Who Is the Hoaxer?

Our authors asked three rhetorical questions, and then gave their hapless readers a bowl of lukewarm mental mush in reply. First, the questions: "Yet there is always the final lurking question: Is the Bible

32. Wright and Fuller, *Acts of God*, p. 61.

33. C. S. Lewis, *The Abolition of Man* (New York: Macmillan, [1947] 1965), p. 35.

34. Kroner, *Kant's Weltanschauung*.

true? What is truth and what is just symbolic? Cannot I have anything that is absolutely certain?" Then the mush: "The answer must be that the symbol is the truth. We have no other truth. We know it is not literal truth, but we know that the biblical portrayal is the relationship between the unknown infinite and ourselves here and now. No precise dividing line can be drawn between the ultimately real and the poetic symbol, because God has not made us infinite."[35] In short, they argued that because I am not infinite, and therefore not God, I need not fear an infinite God, for my very finitude keeps me from knowing God. To which Paul answered many centuries ago:

> For the wrath of God is revealed from heaven against all ungodliness and unrighteousness of men, who hold [back] the truth in unrighteousness; because that which may be known of God is manifest in them; for God hath shewed it unto them. For the invisible things of him from the creation of the world are clearly seen, being understood by the things that are made, even his eternal power and Godhead; so that they are without excuse (Rom. 1:18–20).

The Bible of the higher critics cannot possibly be what it clearly says that it is: the revealed word of the Creator and Judge of the universe. Now, if the Bible really isn't what it says it is, then it must be a hoax. Once the implicit though politely unstated accusation of hoaxing is made, the question then arises: Who is the true hoaxer, God or the higher critic? There should be no doubt in our minds: the literary critic is the myth-maker. Literary higher criticism of the Bible is a hoax. No other word does it justice. It is a fraud, a lie, a denial that God's revealed word is what it says it is.[36] Wright and Fuller made a classic Freudian slip when they used the word *forged* for "hammered out" (as in "crucible"), when it is far easier to interpret *forged* as "falsified" (as in "forged signature"): "It is quite legitimate to use the methods of historical and literary criticism which were forged during the liberal period in order to reconstruct the underlying history."[37] Forged indeed! Higher criticism rests on the presupposition that all

35. Wright and Fuller, *Acts of God*, p. 37.

36. Oswald T. Allis, *The Five Books of Moses* (Philadelphia: Presbyterian & Reformed, [1943] 1949). I appreciate the book's subtitle, reminiscent of the nineteenth century: *A Reexamination of the Modern Theory that the Pentateuch Is a Late Compilation from Diverse and Conflicting Sources by Authors and Editors Whose Identity Is Completely Unknown*. See also Allis, *The Old Testament: Its Claims and Its Critics* (Nutley, New Jersey: Presbyterian & Reformed, 1972); Robert Dick Wilson, *A Scientific Investigation of the Old Testament*, with revisions by Edward J. Young (Chicago, Illinois: Moody Press, 1959); Edward J. Young, *Thy Word Is Truth* (Grand Rapids, Michigan: Eerdmans, 1957).

37. Wright and Fuller, *Acts of God*, p. 237.

morality is relative to historical time and place, and that the laws of the Bible, a strictly historical human document, are also relative. It denies the unity and moral integrity of the Bible.

F. Textual Indeterminacy Equals Ethical Indeterminacy

The real motive of higher criticism is ethical. This, too, was Van Til's assertion: covenant-breaking man's problem is not a lack of knowledge about God; rather, it is his *lack of obedience* to God. The higher critics seek to confuse men by blurring the universal ethical requirements of God's holy word. If they were correct, then there could be no final judgment, for God's sanctions require God's permanent stipulations. To deny God's judgment, His stipulations must be presumed to be incoherent, unclear, and limited to the individual conscience, rather than coherent, clear, and universal in every human conscience.

Karl Barth was a defender of just such a radically individual ethics, an ethics which matched his thesis of a radically dialectical, incoherent, creed-denying, God-man encounter—a noumenal encounter beyond nature and history. He denied as "untenable" the assumption of the universality of God's ethical commands, for "the command of God . . . is always an individual command for the conduct of this man, at this moment and in this situation. . . ."[38] In short, on Barth's basis there cannot be a God-revealed permanent Christian ethics, nor civil statutes that conform to fixed biblical principles. Statutes and creeds are supposedly only the inventions of men, not the appropriate human responses to God's fixed and reliable revelation of Himself in a God-inspired historical document. Barth thereby proclaimed the triumph of Kant's noumenal trans-historical realm of randomness over Kant's phenomenal historical realm of scientifically predictable cause and effect, all in the name of higher ethics and higher critical insights. This was Barth's assertion of the triumph of historical and ethical relativism over the Bible. This was his announcement of the triumph of covenant-breaking man over God, and above all, over the final judgment. Autonomous man seeks to impose his temporal judgments on God by denying the historic validity of God's revelation of Himself. This, of course, was precisely what Adam attempted to do in the garden by eating the forbidden fruit in defiance of God's explicit revelation. The results are equally predictable.

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38. Karl Barth, *Church Dogmatics*, trans. A. T. Mackay (Edinburgh: T. & T. Clark, 1961), Vol. 3, Part 4, p. 11; cited by Walter Kaiser, Jr., *Toward Old Testament Ethics* (Grand Rapids, Michigan: Zondervan Academie, 1983), p. 25.

1. Permanent Standards for Eternal Judgment

A righteous God who judges men eternally does so only on the basis of a *unified ethical system*. Only because the ethical standards never change could the punishment never change. If the texts are not ethically unified, then there is no threat to man from the God of the Bible. Thus, the "prime directive" of higher criticism is to affirm the lack of unity in the Bible. This is the "higher" critic's operating presupposition when he begins to study the Bible.

He adopts a five-step process. First, he *assumes* that the books of the Bible are textually jumbled. Second, he tries to *prove* that the books of the Bible are textually jumbled. Third, he *assumes* that through creative myth-making, he himself can produce a meaningful reconstruction of what the ancient authors ("redactors") really wanted to convey to all mankind, despite each one's short-term goals of political or bureaucratic manipulation. Fourth, he tries to present a "*deeper" message* for modern man that transcends the Bible's unfortunately jumbled texts. Finally, the higher critic offers *his version of the Bible's true transcendent ethical unity*. Somehow, this newly discovered transcendent ethical unity always winds up sounding like the last decade's political manifesto for social democracy, or else it sounds like Marxism.

A good statement of this operating presupposition of textual disunity is J. L. Houlden's remark that "There is, strictly speaking, no such thing as 'the X of the New Testament'.... It is only at the cost of ignoring the individuality of each, in thought and expression, that the unified account can emerge.... There can be no initial assumption of harmony."[39] So, it is supposedly illegitimate to speak of "the X of the New Testament." Well, how about a *heavenly Author* of the New Testament? How about solving the equation as "X = God." Sorry, said Houlden implicitly, we cannot begin with any such assumption. Well, then, how about "the *grammar* of the New Testament"? We will posit "X = grammar." Houlden was then silent, as befits a man who has implicitly denied the grammatical coherence of New Testament Greek. If he followed the logic of his statement, Greek grammar disappears, and with it, grammar in general. The coherence of the universe of rational discourse disappears, not to mention coherence of the universe itself. Once you play these sorts of verbal games, their self-contradictory nature swallows up your vaunted neutral scholarship.

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39. J. L. Houlden, *Ethics and the New Testament* (Middlesex, England: Penguin, 1973), p. 2; cited by Kaiser, ibid., p. 13.

Contrary to Mr. Houlden, we must begin our Bible studies (and every other kind of study) with the presupposition of the self-contained ontological Trinity and His creation of the universe out of nothing. We must begin with the Creator-creature distinction, as Van Til affirmed throughout his career. We must begin with the assumption of the unity and harmony of God's expression of Himself in the word of God, the Bible. If we do not begin with this set of presuppositions, we will find ourselves as intellectually impotent as the scholarly higher critics of the Bible, who find it difficult to make sense of anything.

The higher critics are always alert to any hint of defection from the Party's line concerning ethical relativism. Hans Jochen Boecker criticized the Postscript of another German scholar, H. D. Bracker. Herr Doctor Bracker made an academic gaffe by concluding in 1962 that "Israel's law by far surpassed the other three [Babylonian, Hittite and Assyrian] in its ethical purity and in its humanity." Such a conclusion is "highly suspect," Herr Doctor Boecker assured his readers.[40] Why is this conclusion "highly suspect"? Because it breaks with the supposed academic neutrality and ethical relativism of modern scholarship, especiall modern biblical scholarship.

Young scholars are informed subtly from the outset of their careers as undergraduates that they must always begin with the assumption that all religious faiths are equal (except for fundamentalism, which preaches an infallible Bible), all political systems are equal (except for Nazi Germany's, of course, mainly because the Nazis lost the war, and South Africa's, which is not based on the politics of black Africa: "one man, one vote, one time only"), and all nations are equal (except for the United States, which occasionally dared to call the Soviet Union into question). What this kind of worldview produces is men without spines who cannot distinguish truth from falsehood, righteousness from perversion, or a cause worth dying for from the latest political slogan.

So, in order to prove all this, higher critics self-consciously spend their myopia-inducing lives searching for internal evidence that denies the unity of that historical document. I agree with Walter Kaiser's observation of the crucial link between higher criticism and men's loss of faith in the unity of the biblical message (including its ethical requirements): "For many it is too much to assume that there

40. Hans Jochen Boecker, *Law and the Administration of Justice in the Old Testament and Ancient East*, trans. Jeremy Moiser (Minneapolis, Minnesota: Augsburg, [1976] 1980), p. 16.

is consistency within one book or even a series of books alleged to have been written by the same author, for many contend that various forms of literary criticism have suggested composite documents often traditionally posing under one single author. This argument, more than any other argument in the last two hundred years, has been responsible for cutting the main nerve of the case for the unity and authority of the biblical message."[41]

G. Higher Criticism and Evolution

Higher criticism is based on an evolutionary model of human morality and human history. It assumes, and then seeks to prove, that the texts of the Bible, and especially the Old Testament, were self-consciously altered by later scribes and "redactors" in order to make the Bible's message conform to the latest ethical and economic principles of the day. It helped to create the early nineteenth century's intellectual climate of opinion that was so favorable to Darwinism after 1859. Ethical relativism is an idea that has had pernicious consequences. Someday, some enterprising scholar is going to write a monograph tracing at least one of the historic roots of Nazism back to German higher criticism. Nazism has been traced back to just about everything else in German history, but this possibility has been regarded as off-limits by secular historians; it comes too close to home, theologically speaking. D. F. Strauss' *Life of Jesus* could easily serve as a starting point in such an investigation. Arthur Cohen has suggested this historical connection, and it deserves a detailed study.[42] Cohen's warning should be taken seriously: it is dangerous to separate ethics from faith, which is what higher criticism did. "Nineteenth-century theologians had, indeed, succeeded: the ethics of the Hebrew Bible were winnowed by the Gospels and the ethics restored to Christian conscience were ethics for the 'between time,' when history awaited the return of Christ. The purge of Christianity of its Jewish elements was disastrous."[43]

A representative academic example of the spoiled fruits of higher criticism is presented by the economic historian Morris Silver, who spent an entire volume painstakingly trying to collate and make coherent an immense body of archeological, economic, and higher critical

41. Kaiser, *Toward Old Testament Ethics*, p. 26.
42. Arthur A. Cohen, *The Myth of the Judeo-Christian Tradition* (New York: Schocken, 1971), pp. 199–200.
43. *Ibid.*, p. 200.

textual evidence in order to prove what higher critics assume, namely, that the Book of Deuteronomy was written many centuries after the exodus. "A central hypothesis of this book is that Deuteronomy represents an attempt to revise and expand the old divine-law code *and thereby the legal practices of the Israelite state* in the light of the circumstances of a much more affluent society."[44] That his presentation of the evidence is painful to follow, let alone remember, should come as no surprise: he combined a false initial hypothesis with hundreds of disjointed citations from far too disjointed a body of scholarship.

There is another major intellectual goal of higher criticism besides re-dating the giving of God's laws in order to relativize them: re-dating every document in which a specific prophecy later came true. The author of the prophecy must have written it after the prophesied event took place. Thus, the prophecy is regarded as merely a convenient lie on the part of a redactor, i.e., a myth. Even when this tactic of re-dating is not invoked, higher critics remain skeptical of all future-predicting prophecies. Jeremiah prophesied the death of the false prophet Hananiah, and Hananiah died later that year (Jer. 28:15–17). Silver asked rhetorically: "Does this story represent myth, hypnotic suggestion, coincidence, or political assassination?"[45] What it could not possibly represent, in his worldview, is a fulfilled prophecy.

If a person derives ethics from history, and then scrambles the historical data by means of an erroneous chronological scheme, both his ethics and his historiography will flounder.[46] He will write such nonsense as this: ". . . the indispensable agricultural-fertility aspect of Baalism[47] had long ago become a traditional part of Yahweh worship, taken for granted even by Amos and Hosea. It is a naïve misconception to suppose that the latter had achieved its final form even at the time of Moses and the Exodus. As Morgenstern[48] well noted, the Jew-

44. Morris Silver, *Prophets and Markets: The Political Economy of Ancient Israel* (Boston: Kluwer-Nijhoff, 1983), p. 230.

45. *Ibid*., p. 140.

46. There are few intellectual tasks more pressing on Christian historians of the ancient Near East and classical Greece and Rome than to rethink the various chronologies prior to about 750 B.C. See Appendix A.

47. Citing Ivan Engnell, *Studies in Divine Kingship in the Near East* (Oxford: Basil Blackwell, [1943] 1967), p. 172.

48. Julian Morgenstern, *Rites of Birth, Marriage, Death and Kindred Occasions Among the Semites* (Cincinnati, Ohio: Hebrew Union College Press, 1966), p. 64. If any single individual was most responsible for corrupting American Judaism by means of higher criticism, it was the remarkable, long-lived Julian Morgenstern. For a summary of his life, see Morris Lieberman, "Julian Morgenstern—Scholar, Teacher and Leader," *Hebrew Union College Annual*, XXXII (1961), pp. 1–9.

ish religion is the product of historical evolution to meet the needs of the Jewish people 'from the remote desert period to the present day.' The only 'pure Yahwism' is a dead Yahwism."[49] The book's bibliography is impressive, but its conclusions are trivial on those occasions when they are correct. Such is the endlessly repeated fate of two centuries of higher critical scholarship and historical studies based on higher criticism: the academic trumpets sound, and a mouse marches out, dragging behind him a mountain of jumbled chronologies and footnotes to obscure, unread, and unreadable journal articles, leaving behind him a trail of droppings for other busy mice to follow.[50]

Higher criticism is today a backwater academic discipline that serves the needs of humanism by keeping linguistically skilled but stylistically handicapped scholars fully employed. It also serves to keep educated Christians confused about the legitimacy of their God-given marching orders. Christian scholars pay a great deal of attention to the latest findings of higher critics, filling their own unread academic journals with vaguely conservative modifications of, and an occasional refutation of, some unread essay in a higher critical academic journal. In contrast, secular scholars today pay very little attention to higher criticism's methods or its findings. This speaks far better of secular scholars than for neo-evangelical scholars who have succumbed to the siren song of certified academic respectability, and who have adopted an attitude of "me, too, but not quite so radical, at least not yet."[51]

Conclusion

Christians have made the mistake of regarding the debates over higher criticism as being the peculiar habit of linguistic specialists and theologians. The fact is, from the very beginning of the rise of

49. Silver, *Prophets and Markets*, p. 124.

50. The best definition of modern theology that I have come across is the one given by David Chilton to his seminary professor, Greg L. Bahnsen, when Prof. Bahnsen asked him why he was not taking his class on the theology of Pannenberg: "Modern theologians are like a pack of dogs who spend most of their time sniffing each other's behinds."

51. I do not deny that an occasional linguistically gifted scholar such as Robert Dick Wilson, O. T. Allis, or Edward Young should devote a lifetime to refuting the best and most influential of the higher critics' presentations. This is a subdivision of apologetics—the intellectual defense of the faith. But surely there is little need for Christians to subsidize the bulk of what passes for academic Old Testament studies today: narrowly focused essays that prove or disprove theses that no one considers relevant, theses that will almost surely be abandoned in less than five years, in those rare instances that anyone adopts them in the first place.

humanism, there has been a war between those who defend the Bible, especially the Old Testament, and those who reject this testimony. This debate throughout most of its history involved all of culture, what we call today a conflict between comprehensive world-and-life views. It is only in the hands of modern scholars that the debate has been narrowly focused on the technical issues of textual analysis. Earlier generations recognized that the debate was far more important than modern scholars are willing to admit.

The task of the Christian scholar in defending the Bible as the word of God must not be narrowly focused. The debate did not originate in the university library; it originated in the social conflicts of the day. The participants understood that the outcome of this academic debate over the textual integrity of the Bible would determine who would gain and retain control of the seats of power. This conflict was a life-and-death matter for English culture in the early modern period, and it was recognized as such by the participants.

This perception of the magnitude of the debate has been lost on modern Bible scholars. Humanists have rewritten history in order to downplay the importance of the Bible in Western thought and culture. Evangelical Christians have generally agreed to this view of Western history, almost by default. Members of the evangelical scholarly world have been trained by the humanists who control access to the major institutions of higher learning (i.e., trade union certification). At the same time, laymen in the pews have also accepted the humanists' view of the peripheral nature of the Bible's influence in the early modern history, because such a view of the Bible's lack of relevance in history conforms to the mind-set of what has been called the left wing of the Reformation: Anabaptist pietism. This tradition has been at war with Old Testament law from the beginning. Indeed, this movement was one of the forerunners of higher criticism, for it contrasted the Bible with the inner testimony of man's spirit, and elevated the latter over the former.[52] This legacy of the internalization of the word of God triumphed in the modern church through the influence of twentieth- century fundamentalism: grace over law.[53] Once again, we see evidence of the implicit alliance between the power religion and the escape religion.

It is time for Christian scholars of the Old Testament to stop their fruitless shadow-boxing with higher critics who will no more listen

52. Reventlow, *Authority of the Bible*, ch. 3.

53. Frank, *Less Than Conquerors*.

to Bible-defending scholars than they have listened to Moses and Christ. It is time for orthodox Bible scholars to go to the Pentateuch to find out what it says, not to discover some new bit of evidence that Moses really and truly did say it. There is no doubt a place in the division of intellectual labor for linguistically skilled Christians to defend the integrity of the Bible against the incoherent slanders of higher critics, but this technical task should be put on a low-priority basis. What we do need is a great deal of research on the chronology of the Pentateuch—not on when Moses wrote the Pentateuch, but on what was going on in the surrounding nations at the time of the exodus. We need a reconstruction of ancient chronology, one based on the presupposition that the Bible gives us the authoritative primary source documents, not Egypt or Babylon. Such a project would keep a lot of linguistically skilled scholars productively busy for several generations.

Meanwhile, let the higher critics drown in their own footnotes, the way that Arius died by falling head-first into a privy.[54] Let the dead bury the dead, preferably face down in a scholarly journal.

54. R. J. Rushdoony, *Foundations of Social Order: Studies in the Creeds and Councils of the Early* Church (Vallecito, California: Ross House, [1969] 1998), p. 15.

APPENDIX Q

THE RESTORATION OF BIBLICAL CASUISTRY

I have more understanding than all my teachers: for thy testimonies are my meditation. I understand more than the ancients) because I keep thy precepts.

PSALM 119:99–100

We need to take David's words seriously. He defines personal progress in history in terms of a better understanding of God's revealed laws. He can measure his progress beyond anything achieved by those who have preceded him, not in terms of better study techniques, or improved means of communication, or greater per capita wealth, but in terms of his mastery of God's precepts.

Modern man regards such an idea of historical progress as preposterous. Sad to say, so does the modern Christian. This is why modern society is headed either for an enormous series of disasters or an enormous and culturally comprehensive revival. God will not be mocked. His covenantal sanctions—blessings and cursings—still operate in history. This book deals with God's covenantal case laws from an economic point of view. This strategy is theologically appropriate in the late twentieth century, for modern man worships at his own shrine in the hope of achieving unbroken compound economic growth per capita.

Authority and Dominion is a work of casuistry: the application of conscience to moral decisions. The conscience needs a reliable guide: biblical law. Casuistry has not been a popular academic endeavor within Bible-believing Protestantism since the late seventeenth century. The only works I can think of that are anything like this series of economic commentaries in scope are Richard Baxter's enormous study, *A Christian Directory*, written in 1664–65 and first published

in 1673, and Samuel Willard's equally massive commentary on the Westminster Shorter Catechism, *A Compleat Body of Divinity* (1726). Richard Baxter's goal was the same as mine: "I do especially desire you to observe, that the resolving of *practical Cases of Conscience*, and the reducing of Theological knowledge into *serious Christian Practice*, and promoting a *skilful facility* in the faithful exercise of universal obedience and Holiness of heart and life, is the great work of this Treatise; . . ."[1] Unlike Baxter, I had access to my library when I wrote my book; he did not, having been barred from his pulpit by the state (after the Restoration of Charles II in 1660), and having to write most of it from memory, only subsequently checking the original sources.

A. Ignoring the Case Laws

The major problem I had in writing this book is that there are very few books that even explain the case laws, let alone take them seriously. There are at least three approaches to (or, more accurately, justifications for the rejection of) the case laws.

1. The Case Laws as Annulled

This is the standard Christian view. It has been the common viewpoint almost from the beginning of the church. This is why theonomy appears to be a major break with broad church tradition. Basically, the position boils down to this: a compromise with late classical philosophy's natural law theory began in the early centuries of the church. Christian scholars appealed to universal human reason as the source of rational man's universal knowledge of civil law. This law was seen as natural, meaning that it is implicitly in the common possession of all rational men. There was an early recognition on the part of church scholars and leaders that an appeal to Old Testament case laws could not be conformed intellectually to natural law theory. They understood the obvious question: "If these laws were universally binding on all men, then why did God have to reveal the specifics of His law to the Hebrews, and only to them?" This, in fact, is a very good Christian rhetorical answer to those who declare the universality of natural law. The answer is simple: *there is no such thing as a universal system of rational natural law which is accessible to fallen human reason*. But this answer was too radical to suit scholars and apologists in the

1. Richard Baxter, *A Christian Directory: Or, A Summ of Practical Theologie, and Cases of Conscience* (London: Robert White for Nevil Simmons, [1673] 1678), unnumbered page, but the second page of Advertisements.

early church, just as it has been too radical for Christians ever since. It involves a sharp break with the doctrine of natural law.

The early commentators were sorely tempted to seek a way out of their common-ground apologetic difficulty by interpreting Paul's language regarding the annulment of the law's eternal death sentence against redeemed mankind to mean that the Old Covenant's legal order is in no way judicially binding on New Testament society. They abandoned the concept of God's historical sanctions as applicable in New Testament history. They lumped together Israel's civil case laws with the Old Covenant's laws of ritual cleanliness, and then they dismissed both varieties. This tradition lives on in modern conservative Christian theology.

2. The Case Laws as Antiquarian

Christian Bible commentators pass over these laws on the assumption that they are only of antiquarian interest. Commentators almost never attempt to explain how these laws might have worked in ancient Israel. They never discuss how they might be applied in the New Testament era. Also, the commentators are unfamiliar with even the rudiments of economic theory, so their comments on the economic implications of these verses are almost nonexistent. Their few brief observations are what the reader could readily have figured out for himself. Another major problem is that far too often, the commentators compare the biblical text with fragments of the legal texts of the surrounding Near Eastern cultures. This is not an evil practice in itself, but it is when they make the unproven assumption that Israel must have borrowed its legal code from these pagan cultures. They never discuss the possibility that Israel's law code preceded these pagan extracts, which once again raises the question of the need for the reconstruction of biblical and Near Eastern chronologies.[2]

3. The Case Laws as Mythical

Liberal humanist Bible scholars are so enamored with biblical "higher criticism" that they pay little attention to the meaning of the biblical texts. They prefer instead to spend their lives inventing multiple authors for each text, re-dating subsections in order to make the Book of Exodus appear to be a composite document written centuries after the exodus event (which many of them downplay).[3] When

2. Appendix A.

3. In recent years, this has been changing to some degree. The arcane intricacies of

commentators believe that the oldest laws are remnants of some "primitive nomadism" or else imports from pagan law codes, they have no incentive to think through how these laws should be applied today. When they view most of the case laws as late developments that were inserted retroactively into older biblical texts for political reasons, they have little incentive to understand them as specific historical applications of permanent general principles. Jews and gentiles alike are afflicted with Bible scholarship that relies on the principles of higher criticism.

B. Useless Commentaries

An Economic Commentary on the Bible is not a typical Bible commentary. The typical Bible commentary judiciously avoids the really difficult questions, especially in the area of ethics. It also neglects all but the most obvious of the economic principles involved. It is hard to believe how little practical information is provided by the typical modern Bible commentary. It is understandable why people seldom use them after having bought them. Reality does not meet expectations when it comes to Bible commentaries. What is not understandable is that people continue to buy them. They sit unused on most pastors' book shelves. Maybe their primary use is decorative. I gave up on most Bible commentaries years ago. I use them mainly to keep myself from making major linguistic or textual errors. This is why you will find very few references to Bible commentaries in my footnotes. I long ago stopped wasting my time trying to find economic and judicial information in them. Or, as the economist would say, "the marginal return on each additional invested unit of my time spent in reading them was consistently below the marginal cost." In short, the information costs were too high per unit of relevant data.

1. Jewish Commentaries

If Christian commentaries are unhelpful, what about commentaries written by Jews? Not much better. I did not find the traditional Jewish commentaries useful in writing this commentary, including the Talmud. Up until the 1840s, Jewish scholarship focused almost exclusively on the Talmud, which was completed around A.D. 500,

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the many rival textual reconstructions have led to such a cobweb of complexity that scholars prefer to avoid trying to untangle it. Thus, scholars are sorely tempted to do what was once considered a breach of faith: treat the text as a unit when searching for its meaning.

parts of which extended back to several centuries before Christ in the form of oral tradition.[4] Traditional Jewish commentaries on ethics often deal with highly specific legal cases involving economic disputes between men, or academic disputes among the rabbis, but there is seldom an attempt to spell out the general economic principles guiding any decision of a Jewish court. At best, the rabbis may try to explain why certain forms of restitution are imposed in certain cases, but nothing beyond a kind of common-sense view of economic justice. Thus, Jewish religious scholars until very recently did not bring their great skills of erudition and detailed scholarship to bear on the modern world. "Secular" topics did not interest them, and even today, those Jews who have become illustrious academically in so many fields display little or no interest in the Talmud.

There is a very important reason why the writings of Jewish legal scholars and judges prove to be of little assistance: Jewish courts after the Bar Kokhba revolt of 135 A.D. were not allowed to impose specifically biblical sanctions. Very few gentiles are aware of this, and I suspect that few Jews are, either. When the Romans captured Jerusalem and burned the Temple in A.D. 70, the ancient official Sanhedrin court came to an end. The rabbis, under the leadership of Rabbi Johanan ben Zakkai, then took over many of the judicial functions of the Sanhedrin.[5] They established as a principle that every Jewish court must have at least one judge who had been ordained by the laying on of hands (*semikah*), and who could in principle trace his ordination back to Moses. This laying on of hands could take place only in the Holy Land. Legal scholar George Horowitz comments: "A court not thus qualified had no jurisdiction to impose the punishments prescribed in the Torah."[6] After the Bar Kokhba revolt, the Jews were scattered across the Roman Empire in the diaspora. "The Rabbis were compelled, therefore, in order to preserve the Torah and to maintain law and order, to enlarge the authority of Rabbinical tribunals. This they accomplished by emphasizing the distinction between Biblical penalties and Rabbinical penalties. Rabbinical courts after the second century had no authority to impose Biblical punishments since they lacked *semikah*; but as regards penalties created by Rabbinical legislation, the Rabbis had of necessity, accordingly, a whole series of

4. See Appendix L: "Maimonides' Code: Is It Biblical?"

5. George Horowitz, *The Spirit of Jewish Law* (New York: Central Book Co., 1963), pp. 92–93.

6. *Ibid*., p. 93.

sanctions and penalties: excommunications, fines, physical punishment, use of the 'secular arm' in imitation of the Church, etc."[7] Thus, by the time of the Mishnah, which was Rabbi Judah the Prince's authoritative late-second-century compilation of rabbinical laws, Jewish courts had already abandoned Old Testament sanctions. Thus tied intellectually and ethically to the Mishnah, to the massive Talmud (completed around A.D. 500), and to the literature produced in terms of this ancient tradition, Jewish commentators have never attempted to produce anything like the kind of Bible commentary that mine represents. I am aware of no Jewish compilation of Old Testament case laws that is organized in terms of the Ten Commandments or any other biblical organizational principle (e.g., the covenant) which is comparable to R. J. Rushdoony's *Institutes of Biblical Law*, and no apologetic comparable to Greg L. Bahnsen's *Theonomy in Christian Ethics*. Furthermore, despite the intellectual dominance of economists who are Jews,[8] there is as yet no body of scholarship known as Jewish economics.[9] This is in sharp contrast to the Islamic academic community, which has produced a growing body of self-consciously Islamic economic literature, especially since 1975.[10] With the exception only

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7. *Idem*.

8. Murray Rothbard, an agnostic Jew and a defender of free market economics, once made the observation that "The fate of Western Civilization will be determined by whether our Jews beat their Jews." He presumably had in mind Ludwig von Mises, F. A. Hayek, and Milton Friedman (in his anti-regulatory writings) vs. Karl Marx, Paul Samuelson, Lawrence Klein, etc.

9. The two titles that might be offered as examples of such scholarship are quite recent: Aaron Levine, *Free Enterprise and Jewish Law* (New York: Ktav Publishing House, Yeshiva University Press, 1980); Meir Tamari, "*With All Your Possessions": Jewish Ethics and Economic Life* (New York: Free Press, 1987). Neither study is particularly theoretical ordetailed in its practical applications. They are more like introductory surveys of a handful of themes in the Talmud that are related to economics.

10. See Muhammed Nejatullah Siddiqi, *Muslim Economic Thinking: A Survey of Contemporary Literature* (Leicester, England: Islamic Foundation, 1981); Muhammed Akram Khan, *Islamic Economics: Annotated Sources in English and Urdu* (Leicester, England: Islamic Foundation, 1983). A cursory list of English-language examples of this literature includes the following: Ibnul Hasan (ed.), *In Search of an Islamic Economic Model* (London: New Century Publishers, 1983); Afzal-Ur-ahman, *Economic Doctrines of Islam*, 4 vols. (Lahore, Pakistan: Islamic Publications Limited, 1974–82); Muazzam Ali (ed.), *Islamic Banks and Strategies of Economic Cooperation* (London: New Century Publications, 1982); Mohammed Muslehuddin, *Insurance and Islamic Law* (Lahore, Pakistan: Islamic Publications, 1969); Muslehuddin, *Economics and Islam* (Lahore, Pakistan: Islamic Publications, 1974); Alhaj A. D. Ajijola, *The Islamic Concept of Social Justice* (Lahore,Pakistan: Islamic Publications, 1977); Muhammed Nejatullah Siddiqi, *Banking Without Interest* (Leicester, England: Islamic Foundation, 1983); Siddiqi, *Issues in Islamic Banking: Selected Papers* (Leicester, England: Islamic Foundation, 1983); Siddiqi, *Partnership and Profit-Sharing in Islamic Law* (Leicester, England: Islamic Foundation,

of Professor Israel Kirzner, I can think of no contemporary academically recognized Jewish' economist[11] who might agree with Rabbi Chajes' mid-nineteenth-century pronouncement: "Allegiance to the authority of the said [oral] rabbinic tradition is binding upon all sons of Israel, since these explanations and interpretations have come down to us by word of mouth from generation to generation, right from the time of Moses. They have been transmitted to us precise, correct, and unadulterated, and he who does not give his adherence to the unwritten law and the rabbinic tradition has no right to share the heritage of Israel; he belongs to the Sadducees or the Karaites who severed connection to us long ago."[12]

2. Orthodox Judaism

In the twentieth century, Orthodox Judaism almost disappeared from sight, so widespread was the defection of millions of Jews who was assimilated into modern society; by Chajes' definition, there are today few Jews remaining in the world, except in the state of Israel. Even the term "Orthodox Judaism" indicates the nature of the problem; it was originally a term of derision used by liberal Jews in the nineteenth century against their traditionalist opponents. Grunfeld wrote: "The word 'Orthodoxy', on the other hand, which was applied by the Reformers to what they called 'Old-Timers' or 'Old-Believers' (AltgHiubige), was taken from the sphere of Christian theology and does not fit Judaism at all, in which the main stress is laid on action or law and not on 'faith', as the Greek term orthodox would express. Nevertheless, once the word 'Orthodoxy' had been thrown at Hirsch and his followers in a derogatory sense, he accepted the challenge

1985); M. Dmer Chapra, *Towards a Just Monetary System* (Leicester, England: Islamic Foundation, 1985); Waqar Masood Khan, *Towards an Interest-Free Islamic Economic System* (Leicester, England: Islamic Foundation, 1985); Raquibuz M. Zaman, *Elimination of Interest from the Banking System in Pakistan* (Karachi: State Bank of Pakistan, 1985). I do not believe that Shaikh Mahmud Ahmad's book, *Economics of Islam* (Lahore, Pakistan: Ashraf Press, 1947), is representative of recent Islamic economic thought in general; the book is a socialist polemic in the name of Islam.

11. Kirzner was not a prominent academic figure, but he was the only "Austrian School" economist who has a reputation among academic economists. Kirzner's dual mastery of the Talmud and the works of Ludwig von Mises is not visible in his writings; the two fields are kept by Kirzner in hermetically sealed separate academic compartments. Few professional economists are aware that he is known as a rabbi in Orthodox Jewish circles. See Aaron Levine, *Free Enterprise and Jewish Law*, p. xi.

12. Z. H. Chajes, *The Student's Guide Through the Talmud* (London: East and West Library, 1952), p. 4. The Karaites were a sect of Judaism established in 767 A.D. by Jews in Babylon. They did not accept the Talmud or the idea of an oral tradition stretching back to Moses.

with the intention of turning that word into a name of honour."[13] Notice his assertion regarding Judaism that "the main stress is laid on action or law and not on 'faith.'" This is indeed the main stress of orthodox Judaism, which nevertheless has an underlying theology: *salvation by law*. Wrote Robert Goldenberg: "Classical Judaism, drawing indirectly on its biblical antecedents, tends to emphasize act over intention, behavior over thought. Righteousness is chiefly a matter of proper behavior, not correct belief or appropriate intention."[14] In contrast, Christianity stresses salvation by faith in Christ. But this faith means faith in Christ's *representative perfect obedience to God's perfect law*; Christian orthodoxy should never lead to a denial of the validity and moral authority of that perfect law which Christ obeyed perfectly.

C. Revolution and Law

I remain convinced that both the West and the Far East are about to experience a major transformation. The pace of social change is already rapid and will get faster. The technological possibility of a successful biological warfare attack on the Western societies grows daily. So does the threat of a banking crisis. Threats to civilization may prove in retrospect to be devastating, but they are certainly perceived today as threats. Added to these grim possibilities is the much more predictable threat of an international economic collapse as a result of the vast build-up of international debt; this in turn could produce domestic political transformations. Also possible is the spread of terrorism. Agricultural output may be endangered, long term, by water shortages and also by soil erosion. We are not sure. What Christians should be certain of is this: *God has been plowing up the ethically erosion-prone world since World War I, and this process is accelerating*.

This has created a unique opportunity for Christian revival, but this time revival could lead to a broad-based cultural transformation. In short, revival could produce an international revolution: family by family, church by church, nation by nation. For a true social revolution to take place, there must be a transformation of the legal order. This transformation takes several generations, but without it, there

13. I. Grunfeld, "Samson Raphael Hirsch—The Man and His Mission," in *Judaism Eternal: Selected Essays from the Writings of Samson Raphael Hirsch* (London: Soncino Press, 1956), p. xlvii.

14. Robert Goldenberg, "Law and Spirit in Talmudic Religion," in Arthur Green (ed.), *Jewish Spirituality: From the Bible Through the Middle Ages* (New York: Crossroad, 1986), p. 232.

has been no revolution, only a *coup d'etat*.[15] There is today an international crisis in the Western legal tradition.[16] This, far more than the build-up of nuclear weapons or the appearance of AIDS, testifies to the likelihood of a comprehensive, international revolution—not necessarily violent, but a revolution nonetheless. The Holy Spirit could produce such a revolution without firing a shot or launching a missile. This is my prayer. It should be every Christian's prayer.

Harold Berman's point is correct: without a transformation of the legal system, there is no revolution. This is why I am devoting so much space to explaining the case laws of Exodus. It is these laws, and their amplification in the Book of Deuteronomy, that must serve as the foundation of any systematically, self-consciously Christian revolution. Natural law is a dead mule; it was always a sterile hybrid, and Darwinism has long-since killed the last known living specimens.[17] (Anti-theistic conservative philosophers and a handful of traditional Roman Catholic and Protestant college instructors and magazine columnists still visibly cling to one or another of these taxidermic specimens, each proclaiming that his specimen is still alive.) Thus, there is nowhere for Christians to turn for guidance in developing a believable social theory and workable social programs except to the case laws of the Old Testament. Once the myth of neutrality is abandoned—really abandoned, not just verbally admitted to be a myth—then the inevitable question arises: By what standard? Christians who have abandoned faith in the myth of neutrality have only one possible answer: "By *this* standard: biblical law."[18]

D. The Conflict Between Two Kingdoms

What I am attempting to do with my life is to publish Christian worldview materials that will lead to the steady replacement of the humanist intellectual foundations of modern civilization. The arena

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15. Harold J. Berman, *Law and Revolution: The Formation of the Western Legal Tradition* (Cambridge, Massachusetts: Harvard University Press, 1983), p. 20.

16. *Ibid*., pp. 33–41.

17. R. J. Rushdoony wrote: "Darwinism destroyed this faith in nature. The process of nature was now portrayed, not as a perfect working of law, but as a blind, unconscious energy working profligately to express itself. In the struggle for survival, the fittest survive by virtue of their own adaptations, not because of natural law. Nature produces many 'mistakes' which fail to survive and become extinct species and fossils. The destiny of the universe is extinction as its energy runs down." Rushdoony, *The Biblical Philosophy of History* (Vallecito, California: Ross House, [1969] 2000), p. 7.

18. Greg L. Bahnsen, *By This Standard: The Authority of God's Law Today* (Tyler, Texas: Institute for Christian Economics, 1985).

of conflict is nothing less than world civilization. The issue is the kingdom of God, both in heaven and on earth (Matt. 28:18). There are many books that deal with the kingdom of God, but my view of the kingdom of God as it is visibly manifested in history is simple: it is God's authorized and morally required *civilization*. It is simultaneously internal (world-and-life view), ethical (a moral law-order), and institutional (covenantal judicial relationships). Raymond Zorn began his book on the Kingdom of God with these words: "In the broadest sense God's Kingdom refers to the most extended reaches of His sovereignty. As Psalm 103:19 puts it, 'The Lord hath prepared his throne in the heavens; and his kingdom ruleth over all.'"[19] The kingdom of God is all-encompassing, in the same sense that a civilization is all-encompassing.[20] I agree in principle with the Jewish scholar, I. Grunfeld, when he wrote that "true religion and true civilisation are identical. It is the view of the Torah as the civilisation of the state of God—where Torah is coextensive with life in all its manifestations, personal, economic, political, national."[21]

Nothing less than this *comprehensive replacement* of humanism and occultism with Christianity will suffice to please God. We are called

19. Raymond O. Zorn, *Church and Kingdom* (Philadelphia: Presbyterian and Reformed, 1962), p. 1. Zorn, an amillennialist, stresses the kingdom as the reign of God rather than the sphere or domain of His rule (p. 1). Greg Bahnsen's response to this sort of argument is correct: it is ridiculous to speak of the reign of a king whose kingdom has few if any historical manifestations that are as comprehensive in scope as his self-proclaimed sovereignty. Such a limited definition of God's kingdom and kingship is in fact a denial of God's kingdom. Bahnsen, "The World and the Kingdom of God" (1981), reprinted as Appendix D in Gary DeMar and Peter J. Leithart, *The Reduction of Christianity: A Biblical Response to Dave Hunt* (Ft. Worth, Texas: Dominion Press, 1988).

20. The reader should not misinterpret what I am saying. I am not saying that the kingdom of God is the primary theme in the Bible, or in the message of Jesus. His primary theme is the same as the whole Bible's primary theme: *the glory of God*. I agree with Geerhardus Vos' statement: "While thus recognizing that the kingdom of God has an importance in our Lord's teaching second to that of no other subject, we should not go to the extreme into which some writers have fallen, of finding in it the only theme on which Jesus actually taught, which would imply that all other topics dealt with in his discourses were to his mind but so many corollaries or subdivisions of this one great truth. . . . Salvation with all it contains flows from the nature and subserves the glory of God. . . ." Geerhardus Vos, *The Teaching of Jesus Concerning the Kingdom and the Church* (Grand Rapids, Michigan: Eerdmans, 1958), p. 11. I am saying only that the kingdom of God is inherently all-encompassing culturally. In fact, I am convinced that the best biblical definition of "kingdom" is civilization. The kingdom of God is the civilization of God—internal, external, heavenly, earthly, historical, and eternal.

21. I. Grunfeld, "Samson Raphael Hirsch—the Man and His Mission," *Judaism Eternal*, I, p. xiv. Obviously, I do not agree with Grunfeld's next sentence: "This concept is applicable, of course, only when there is a Jewish State, or at least an autonomous Jewish Society, which can be entirely ruled by the Torah." This statement provides

to work for the progressive replacement of humanist civilization by Christian civilization, a replacement that was definitively achieved with the death, resurrection, and ascension of Jesus Christ, and manifested by the coming of the Holy Spirit at Pentecost. We are to *replace* Satan's humanistic kingdoms. "Kingdom" is an inescapable concept. It is never a question of kingdom vs. no kingdom; it is always a question of *whose* kingdom. Rushdoony was correct in his evaluation of mankind's inevitable quest for utopia, the final order, which only God can inaugurate and bring to pass: "The church accordingly has never been alone in history but has rather faced a multiplicity of either anti-Christian or pseudo-Christian churches fiercely resentful of any challenge to their claim to represent the way, truth and life of that final order. The modern state, no less than the ancient empire, claims to be the vehicle and corporate body of that true estate of man. As the incarnation of that final order, it views family, church, school and every aspect of society as members and phases of its corporate life and subject to its general government. It is in terms of this faith, therefore, that the state claims prior or ultimate jurisdiction over every sphere, and steadily encroaches on their activity."[22]

1. Comprehensive Revival

Christian Reconstructionists are self-consciously attempting to lay new intellectual foundations for a comprehensive moral and therefore intellectual, social, political, and economic transformation. Not until at least the preliminary steps in this theological and intellectual transformation are accomplished can we expect God to send worldwide revival. If the coming revival is not comprehensive in its effects, it will no more change the world permanently than earlier revivals have changed it permanently. The regeneration of people's souls is only the first step on the road to comprehensive redemption. Christian philosopher Cornelius Van Til, who died in 1987, issued a warning: "The temptation is very great for the believers in these times when the Church is in apostasy, and its conquest of the world for Christ seems to be losing out, that they shall spend a great deal of their time in passive waiting instead of in active service. Another danger that lurks at a time of apostasy is that the few faithful ones give up the compre-

evidence of the accuracy of Vos' analysis of Jewish teaching concerning the Kingdom of heaven: "The emphasis was placed largely on what the expected state would bring for Israel in a national and temporal sense. Hence it was preferably thought of as the kingdom of Israel over the other nations." Vos, *Kingdom and the Church*, p. 19.

22. R. J. Rushdoony, Foreword, in Zorn, *Church and Kingdom*, pp. xix–xx.

hensive ideal of the kingdom and limit themselves to the saving of individual souls."[23] We need a *comprehensive revival* that will produce *comprehensive redemption*.[24]

We must understand from the beginning that the message of the kingdom of God rests on a concept of *salvation which is supernaturally imparted*, not politically imparted. The kingdom of God is categorically not a narrow political program of social transformation; it is rather a supernaturally imposed salvational program that inevitably produces world-changing political, social, legal, and economic effects. Geerhardus Vos was correct: "The kingdom represents the specifically *evangelical* element in our Lord's teaching. . . . Jesus' doctrine of the kingdom as both inward and outward, coming first in the heart of man and afterwards in the external world, upholds *the primacy of the spiritual and ethical* over the physical. The invisible world of the inner religious life, the righteousness of the disposition, the sonship of God are in it made supreme, the essence of the kingdom, the ultimate realities to which everything else is subordinate. The inherently ethical character of the kingdom finds subjective expression in the demand for repentance."[25]

The primary need today, as always, is the need for widespread personal repentance before God. We therefore need a Holy Spirit-initiated Christian revival to extend the kingdom of God across the face of the earth.

2. Blueprints and Responsibility

Without a bottom-up religious transformation of civilization, the policies that we Christian Reconstructionists recommend will at best have only a peripheral influence on society. The reader should understand, however, that we expect the revival and this bottom-up transformation, if not in our own lifetimes, then eventually. The Bible's blueprints for society will eventually be universally adopted across the face of the earth as the waters cover the sea (Isa. 11:9).[26] Christian Reconstructionists regard this as historically inevitable. This

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23. Cornelius Van Til, *Christian Theistic Ethics*, vol. III of *In Defense of Biblical Christianity* (Phillipsburg, New Jersey: Presbyterian & Reformed, [1958] 1980), p. 122.

24. Gary North, "Comprehensive Redemption: A Theology for Social Action," in North, *Is the World Running Down? Crisis in the Christian Worldview* (Tyler, Texas: Institute for Christian Economics, 1988), Appendix C.

25. Vos, *Kingdom and the Church*, pp. 102–3.

26. J. A. De Jong, *As the Waters Cover the Sea: Millennial Expectations in the Rise of Anglo-American Missions, 1640–1810* (Kampen, Netherlands: J. H. Kok, 1970).

confidence is what makes the theonomic postmillennial worldview so hard-nosed and uncompromising. We annoy almost every Christian who has doubts about the earthly triumph of God's kingdom, which means that we initially alienate just about everyone who reads our materials. Our antinomian Christian critics call us arrogant. Bear in mind that the word "arrogant" usually means "a confident assertion of something I don't approve of."

Christians who doubt the future earthly triumph of God's kingdom tend to be less confident and less sure about the practical reliability of the Bible's blueprints. Sometimes they even deny that the Bible offers such blueprints. If it does offer such blueprints, then evangelical Christians have major responsibilities outside the sanctuary and the family. This prospect of worldwide, culture-wide responsibility frightens millions of Christians. They have even adopted eschatologies that assure them that God does not hold them responsible for anything so comprehensive as the transformation of today's sin-filled world. They do not believe that God offers to His church the tools, skills, and time necessary for such a generations-long project of social transformation. Therefore, they adopt the philosophy that says that Christians should not even try to reform society, for such efforts are futile, wasteful, and shift precious resources from the only legitimate tasks of the church: preaching individual salvation to the lost, and sustaining the converted spiritually in a time of inevitable cultural decline. They equate social reform programs with polishing brass on a sinking ship. As dispensationalist newsletter writer Peter Lalonde remarked concerning Christians who possess such a vision of God's world-transforming kingdom in history, "It's a question, 'Do you polish brass on a sinking ship?' And if they're working on setting up new institutions, instead of going out and winning the lost for Christ, then they're wasting the most valuable time on the planet earth right now, and that is the serious problem."[27]

E. Doubt vs. Dominion

Christians, paralyzed by their own versions of eschatological pessimism, have not taken advantage of the growing self-doubt that is progressively paralyzing their humanistic opponents. Christians should recognize the extent of the despair that has engulfed those who have rejected the idea that the Bible is the infallible word of God. An example of such despair is the following:

27. Tape One, *Dominion: A Dangerous New Theology, in Dominion: The Word and the New World Order*, a 3-tape set distributed by the Omega-Latter, Ontario, Canada, 1987.

> We live in a time in which old perspectives informing our understanding of the world have been seriously shaken by events of modern times. In many cases these old perspectives have collapsed; they no longer hold as our centers .... Against the backdrop of such events, an erosion of traditional values has taken place—an erosion which has left us feeling that we [are] adrift in a sea of relativity in which anything, including such evils as the holocaust or nuclear war might be rationalized as "necessary." It is with this experience that we know that the cultural foundations have been shaken. We know that we are no longer guided by a vision of coherence and relatedness concerning our individual existence. We know that we are no longer bound together by a set of values infused with a common sense of destiny. Our sense of destiny, if any, is dominated by an uneasiness and sense of foreboding about the future. The future itself is now feared by many as the ultimate danger to the fragile hold we have on whatever security we have achieved in the present. All of this has left some to question the meaning of their endeavors, while it has left many with a sense of isolation and loneliness. The irony is that this new sense of insecurity has come at a time when the material well-being of those in the advanced industrial nations has reached a height hitherto undreamed of.[28]

This is exactly what the Book of Deuteronomy predicts for a society that has covenanted with God, has been blessed with external wealth, and then has forgotten God in its humanistic confidence (Deut. 8:17): "... the LORD shall give thee there a trembling heart, and failing of eyes, and sorrow of mind: And thy life shall hang in doubt before thee; and thou shalt fear day and night, and shalt have none assurance of thy life" (Deut. 28:65b–66). This sort of widespread pessimism leads either to cultural collapse or relentless bureaucratization, or else to revival. The first is taking place visibly,[29] the second is a growing possibility, and the third, revival, is also becoming more likely. Sociologist Robert Nisbet asked this question: "[W]hat is the future of the idea of progress? Any logical answer must be that the idea has no future whatever if we assume the indefinite, prolonged continuation of the kind of culture that has become almost universal in the West in the late twentieth century. If the roots are dying, as they would appear to be at the present time, how can there be shrub and foliage?"[30] But, he then asked, "is this contemporary Western culture likely to continue for long? The answer, it seems to me, must be in the

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28. Howard J. Vogel, "A Survey and Commentary on the New Literature in Law and Religion," *Journal of Law and Religion*, I (1983), p. 151.

29. Patrick J. Buchanan, *Suicide of a Superpower* (New York: Duane/St. Martins, 2011).

30. Robert A. Nisbet, *History of the Idea of Progress* (New York: Basic Books, 1980), p. 355–56.

negative—if we take any stock in the lessons of the human past." He makes no absolute prophecies—much of his academic career has been devoted to reminding us that such comprehensive cultural prophecies are always overturned by the facts of the future[31]—but he was correct when he says that "never in history have periods of culture such as our own lasted for very long." He saw "signs of the beginning of a religious renewal in Western civilization, notably in America."[32]

1. Guilt and Social Paralysis

This should not be a time for pessimism among Christians. Yet it is. They are missing an opportunity that has not been seen since the late eighteenth century, and possibly since the resurrection of Christ. A universal world civilization now exists for the first time since the Tower of Babel. It is disintegrating morally as it grows wealthy. It is ripe for the harvest.

A successful harvesting operation requires tools. To take advantage of this unique historical opportunity, Christians need tools of dominion—blueprints for the reconstruction of the world. But Christians today do not see that God has given them the tools of dominion, His revealed law. They agree with the humanists who in turn agree among themselves, above all, that the Bible offers society no specific legal standards for comprehensive reform and reconstruction. They agree with such statements as the one made by the editor of *The Journal of Law and Religion*, who was also a professor of Constitutional law at a Catholic law school.

> First, I assume that the Bible is not a detailed historical blueprint for American society, and that it does not contain much concrete guidance for the resolution of specific political conflicts or constitutional difficulties such as slavery and racism, sexism and equal opportunity to participate in society. The biblical traditions are not to be viewed as an arsenal of prooftexts for contemporary disputes. Contextual leaps from the situations in which the biblical authors wrote to the situations with which we find ourselves faced are likewise to be avoided.[33]

Notice that he raised the controversial issue of slavery. So did a professor of Hebrew scriptures at Notre Dame University in Indiana: "Then there is the larger hermeneutical issue of the Christian ap-

31. Nisbet, "The Year 2000 And All That," *Commentary* (June 1968).
32. Nisbet, *History*, p. 356.
33. Edward McGlynn Gaffney, Jr., "Of Covenants Ancient and New: The Influence of Secular Law on Biblical Religion," *Journal of Law and Religion*, II (1984), pp. 117–18.

propriation of Old Testament law and the binding nature of biblical norms and stipulations in general. Who today, for example, would be prepared to argue that laws concerning the conduct of war or slavery retain their binding authority for the Christian or for anyone else?"[34] Who would? I would, and so would those who call themselves Christian Reconstructionists. This is why Christian Reconstruction represents a radical challenge to modern antinomian Christianity and modern humanism.

The enemies of God continue to bring up the issue of slavery in their war against Christianity. They seek to make Christians feel guilty regarding Christianity's theological and historical legacy. Christianity unquestionably condoned and even sanctioned chattel slavery until the nineteenth century. The enemies of Christianity then trace this judicial sanctioning of chattel slavery back to the Old Testament. In this way, they seek to create a sense of guilt and doubt in their targeted victims. They understand that guilt-ridden people are not effective opponents of the prevailing messianic social order. Rushdoony was correct when he wrote that "The reality of man apart from Christ is guilt and masochism. And guilt and masochism involve an unbreakable inner slavery which governs the total life of the non-christian. The politics of the anti-Christian will thus inescapably be *the politics of guilt*. In the politics of guilt, man is perpetually drained in his social energy and cultural activity by his overriding sense of guilt and his masochistic activity. He will progressively demand of the state a redemptive role. What he cannot do personally, i.e., to save himself, he demands that the state do for him, so that the state, as man enlarged, becomes the human savior of man."[35]

That the Christians failed for many centuries to challenge chattel slavery is a black mark in the history of the church. But to lay the blame at the doorstep of the Bible is either a mistake or an ideological strategy, as argued in Part 3. If this book persuades Christians that this doubt-inducing accusation against the Bible regarding its supposed support of chattel slavery is false, then it will have achieved a major success.

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34. Joseph Blenkinsopp, "Biblical Law and Hermeneutics: A Reply to Professor Gaffney," *ibid.*, IV (1986), p. 98.

35. R. J. Rushdoony, *Politics of Guilt and Pity* (Vallecito, California: Ross House, [1970] 1995), p. 9.

F. Pietism vs. God's Law

What we find in our day is that Christians despise biblical law almost as much as secular humanists do. These Christians have begun to adopt arguments similar to those used by the English Deists. For example, they attack the very thought of stoning drunken, gluttonous sons—not young children, but adult sons who are living at home with their parents, debauching themselves—as some sort of "crime against humanity," when stoning them is specifically a civil sanction authorized by God (Deut. 21:18).[36] The very idea of execution by public stoning embarrasses Christians, despite the fact that public stoning is by far the most covenantally valid form of execution, for God's law requires the witnesses to cast the first stones, and it also requires representatives of the entire covenantal community to participate directly, rather than hiding the act in a sanitary room in some distant prison. The Bible is clear: "The hands of the witnesses shall be first upon him to put him to death, and afterward the hands of all the people. So thou shalt put the evil away from among you" (Deut. 17:7).

1. Stoning

Stoning was a communal activity, an aspect of the civil covenant: sanctions. It took place outside the town (Lev. 24:14; Num. 15:35–36; I Kings 21:13). "If sentence was passed with the help of eye-witnesses, the witnesses had to begin the execution (Deut. 17:7). This was to discourage frivolous testimony in court."[37] Boecker argued that it was a form of excommunication, and that those stoned were not entitled to burial in the family plot, but he cited no Scriptural evidence. "For the ancients, the criminal was possessed of a real guilt which jeopardised the community. By covering the evil-doer with stones outside the town, the evil that he could spread was banished."[38] This argument is ridiculous, a liberal's self-conscious attempt to reinterpret the Bible's covenantal concepts as magical. The execution of the evil-doer was sufficient to stop the spread of his evil. The pile of stones was intended rather to serve as a covenantal reminder. Each pile of stones testified to the reality of covenant sanctions, a monument to God's judgment of cursing in history, just as the stones from the River Jor-

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36. Ed Dobson and Ed Hindson, "Apocalypse Now?", *Policy Review* (Fall 1986), p. 20.

37. Hans Jochen Boecker, *Law and the Administration of Justice in the Old Testament and Ancient East*, trans. Jeremy Moiser (Minneapolis, Minnesota: Augsburg, [1976] 1980), p. 40.

38. *Idem*.

dan were made into a memorial of God's judgment of the deliverance of Israel (Josh. 4:7–8).

Public stoning forces citizens to face the reality of the ultimate civil sanction, execution, which in turn points to God's ultimate sanction at judgment day. Stoning also faithfully images the promised judgment against Satan: the crushing of his head by the promised Seed (Gen. 3:15). Because most people, including Christians, do not want to think about God's final judgment, they prefer to assign to distant unknown executioners the grim task of carrying out God's judgment in private. This bureaucratization of execution is immoral; it is itself criminal. It is unjust to the convicted criminal,[39] and it is unjust to the surviving victims, who do not see God's justice done in public. The *systematic impersonalism of capital punishment* is the problem, not capital punishment as such. This deliberate impersonalism has corrupted the entire penal system today.[40]

The growth of impersonalism has been a problem for the West from the beginning. Even in the days of public executions, several centuries ago, the axeman wore a face mask. The Bible does not allow the establishment of a professional, taxpayer-financed guild of faceless executioners who, over time, inevitably either grow callous and impersonal toward their awful (full of awe) task, or else grow sadistic. Instead, the Bible imposes personal responsibility on members of society at large for enforcing this ultimate sanction. But people in the Christian West have always refused to accept this God-imposed personal responsibility. They prefer to make a lone executioner psychologically responsible for carrying out the sentence rather than

39. Public stoning would allow a condemned man to confront the witnesses and his executioners. The idea of a private execution where the condemned person cannot have a final word to those who have condemned him is anything but liberal–minded. It was long considered a basic legal privilege in the West for a condemned person to have this final opportunity to speak his mind. The sign of the intolerance of the "liberal" French Revolutionaries was their unwillingness to allow King Louis XVI to speak to the crowd at his execution. The judges had ordered drummers to begin drumming the moment he began to speak, which they did. Leo Gershoy, *The French Revolution and Napoleon* (New York: Appleton-Century-Crofts, 1933), p. 238.

40. Whereas men used to be flogged in public or put in the stocks for a few days, we now put them in hidden jails that are filled with a professional criminal class (as well as with AIDS-carrying homosexual rapists). This impersonalism of punishment has been paralleled by a steady bureaucratization and institutionalization of the penal system. The guards in prisons tend to become as impersonal and callous as their prisoners. Bukovsky wrote of Soviet prisons: "There's no real difference between the criminals and their guards. Except for the uniforms. The slang is the same, the manners, concepts, psychology. It's all the same criminal world, all joined by an unbreakable chain." Vladimir Bukovsky, *To Build a Castle—My Life as a Dissenter* (New York: Viking, 1978), p. 334.

participate in this covenantal responsibility, as God requires. This refusal to accept personal responsibility by citizens has led to a crisis in Western jurisprudence in the twentieth century. Decade by decade, the more consistent haters of God's law have become politically dominant. They have used the same kinds of arguments against capital punishment in general that embarrassed Christians had accepted in their rejection of public stoning. Step by step, society eliminates capital punishment. Men's hatred of God's law is steadily manifested covenantally in modern civil law.

2. Economic Restitution

A considerable percentage of this book is devoted to a defense of the biblical concept of penal restitution. *Convicted criminals are supposed to make restitution payments to their victims*. This "revolutionary" idea is at last being taken seriously by a few judges in the United States.[41] But behind the ability of today's civil courts to impose the sanction of restitution lies a greater threat to the criminal: *imprisonment*. This is the "dirty little secret" of those atheists, pietists, and antinomians who ridicule the biblical system of slavery: they have accepted the horror of unproductive imprisonment in place of the biblical institution of penal labor servitude, out of which an industrious slave could purchase his freedom. If the criminal in ancient Israel was financially unable to pay his victim, his sale to a slave-buyer was what provided the victim with his lawful restitution payment. The prison system has always been the Bible-hater's preferred substitute for the Old Testament's system of law-restricted labor servitude. In short, in order to enforce the Bible's principle of economic restitution to victims by criminals, there always has to be a more fearful support sanction in reserve: death, imprisonment, whipping, banishment, or indentured servitude. But only one of these reserve sanctions raises money for the victims: indentured servitude. The critics of biblical law just never seem to remember to mention. this fact.

G. The Fear of God's Law

This hatred of God's law has affected millions of Christians who sing the old hymn, "O How Love I Thy Law." Even when they do not actively hate it (and most do), they are simply afraid of God's law. They have not studied it, and they have been beaten into intellec-

41. For example, Lois G. Forer, *Criminals and Victims: A Trial Judge Reflects on Crime and Punishment* (New York: Norton, 1980).

tual submission by humanists, Christian antinomians, and those who fear personal and cultural responsibility. A discouraging example of this is Dr. James Dobson, whose books, films, and daily radio broadcasts on Christian family issues have inspired millions of Americans, and who by 1988 had become the Protestant evangelical leader in the United States with the largest and most dedicated following.[42] He led the fight against abortion and pornography, and the fight for home schooling and the re-establishment of godly disciplining of children in the home. Yet in a pamphlet against abortion, he rejected as inapplicable the single most important passage in the Bible that deals with abortion, one which makes abortion a capital crime, Exodus 21:22–25. In response to a preposterous misinterpretation of this passage by a state-licensed, profit-seeking "Christian" murderer (a pro-abortion gynecologist), Dr. Dobson did not refute the misinterpretation, but instead dismissed the Old Testament case laws as inappropriate guides for contemporary Christian righteousness. He asked his critic rhetorically:

> Do you agree that if a man beats his slave to death, he is to be considered guilty only if the individual dies instantly? If the slave lives a few days, the owner is considered not guilty (Exodus 21:20–21)[?] Do you believe that we should stone to death rebellious children (Deuteronomy 21:18–21)? Do you really believe we can draw subtle meaning about complex issues from Mosaic law, when even the obvious interpretation makes no sense to us today? We can hardly select what we will and will not apply now. If we accept the verses you cited, we are obligated to deal with every last jot and tittle.[43]

What we see here is an attempt to avoid dealing with "every last jot and tittle" of God's inspired word. Yet it was Jesus who warned His people: "Till heaven and earth pass, one jot or one tittle shall in no wise [way] pass from the law, till all be fulfilled" (Matt. 5:18). Are we to ignore this? Dr. Dobson did. Admittedly, it is possible to argue that "heaven and earth" here mean the Old Covenant order, and that the fall of Jerusalem did fulfil the law. It is also possible to argue, as

42. Pat Robertson, by resigning from the ministry and also from his "700 Club" television show in his quest for the Presidency in early 1988, inescapably exchanged his office of religious commentator for that of political activist. After his defeat in the Republican Party primaries, he returned to television, and he still had a large following, though smaller than when he left. His leadership role was probably perceived even by his most admiring followers as being different from what it had been before he entered politics.

43. James Dobson, "Dialogue on Abortion," in Dobson and Gary Bergel, *The Decision of Life* (Arcadia, California: Focus on the Family, 1986), p. 14.

James Jordan argued, that the death of Christ buried the law, and that His resurrection restored it in a new form, with the various dietary and ritual cleansing laws fulfilled (and therefore annulled in history) by the resurrection (Acts 10; I Cor. 8). But this does not absolve us from the difficult task that so disturbed Dr. Dobson, namely, selecting "what we will and will not apply now." To retreat from this task of applied Christianity is to turn over the running of the world to pagan humanists and their theological allies, Christian antinomians. *It is to turn the medical world over to the God-hating abortionists who are opposed so vigorously by Dr. Dobson*. Yet this is precisely what every publicly visible Christian leader did throughout the twentieth century, and what almost all of them did after the late seventeenth century. It is universally assumed by Christians that the case laws of Exodus are null and void, and *should* be. It is this assumption which this book is designed to challenge.

The tools of dominion, God's case laws, sit unused and generally unread by those who call themselves Christians. They are the best weapons that Christians possess for moral self-defense, since the best defense is a good offense, yet they steadfastly refuse to use them. To use God's Bible-revealed law effectively would require them to become intimately familiar with its many subtleties and complex applications, and even less appealing, to discipline themselves in terms of it. They prefer to let it sit unopened, either in their laps or on their shelves. Christians therefore continue to lose the war for civilization.

H. Tom Paine's Demon: The Bible

We know where antinomian (anti-God's law) theology has headed In the past: to Unitarianism, atheism, and bloody revolution. It winds up with the words of Tom Paine: that in consideration of "the obscene stories, the voluptuous debaucheries, the cruel and torturous executions, the unrelenting vindictiveness, with which more than half the Bible is filled, it would be more consistent that we called it the word of a demon, than the word of God."[44]

Is the Old Testament the word of a demon? If not, then why do antinomian Christians—liberals and conservatives, neo-evangelicals and fundamentalists—continue to ridicule Old Testament law? They stick their fists in the face of the God of Psalm 119, and shout in defiance of His law: "Is God really nothing more than the abstract, impersonal

44. *The Age of Reason*, Part I; cited by David Brion Davis, *The Problem of Slavery in the Age of Revolution, 1770–1823* (Ithaca, New York: Cornell University Press, 1975), p. 525.

dispenser of equally abstract and impersonal laws?"[45] Yes, He is *much* more than this. Among other things, He is the Eternal Slavemaster over those who rebel against Him, the dispenser not of abstract law but of personally experienced agony forever and ever. Hell is real. The lake of fire is real. God is therefore not to be mocked. But He has many mockers, and many of these mockers call themselves by His name. They do not fear Him. For now. But eventually God will stick His fist in their faces. People may choose to ignore God's law; they will not be able to ignore social crises much longer.

Another major alternative to Paine's sort of outright apostasy is some variation of Marcion's second-century heresy of the two-Gods theory of history: that an evil God operated in the Old Testament, but a nice God runs the world today. (For more details, see below: "The Continuing Heresy of Dualism.") Robert Davison was correct when he said that a "Marcionite tendency may be fairly traced in much modern discussion of Christian ethics, nor is this tendency confined to scholarly discussion."[46]

The third alternative is dispensationalism: God used the revealed laws of the Bible to govern people before the advent of Christ, but today we have new laws in operation, meaning vague, undefined personal laws, and no specifically New Testament cultural laws at all. The road to cultural impotence is paved with neat (and ultimately unworkable) solutions to difficult biblical problems. Slavery is one of these difficult problems.

We must search for the moral principle that undergirded each Old Testament law. When we find it, we can then begin to discuss how or to what extent God expects the civil government or some other government to enforce it today. Those who begin with the presupposition that a particular Old Testament law or God-required Hebrew practice was innately evil have already taken the first step toward Paine's view: that the Bible is the word of a demon.

Christians today are afraid of the laws in the Bible. They are actually embarrassed by them. They do not recognize that biblical law is a two-edged sword of God's judgment: blessing for the righteous, but cursing for the unrighteous (Rom. 13:1–7). They do not understand that *God's law-order for society is merciful*. For example, God allows the

45. Rodney Clapp, "Democracy as Heresy," *Christianity Today* (Feb. 20, 1987), p. 23.

46. Robert Davison, "Some Aspects of the Old Testament Contribution to the Pattern of Christian Ethics," *Scottish Journal of Theology*, 12 (1959), p. 374; cited by Walter Kaiser, *Toward Old Testament Ethics* (Grand Rapids, Michigan: Zondervan Academie, 1983), p. 23.

death penalty for kidnappers (Ex. 21:16). The death penalty used to be imposed on kidnappers in the United States, and kidnapping was rare. It is no longer imposed regularly, and kidnapping has become a blight. Kidnapping by terrorists in Europe is commonplace. Who says that God's law regarding kidnapping is too· harsh? Harsher than kidnapping itself? So it is with *all* of God's civil laws. They are merciful compared with the effects of unpunished evil. The modern world is learning just how unmerciful a society can be that is not governed by biblical law.

I. "Theocraphobia": Fear of God's Rulership

When, in a court of law, the witness puts his hand on the Bible and swears to tell the truth, the whole truth, and nothing but the truth, so help him God, he thereby swears on the word of God—the *whole w*ord of God, and *nothing but* the word of God. The Bible is a unit. It is a "package deal." The New Testament did not overturn the Old Testament; it is a *commentary* on the Old Testament. It tells us how to use the Old Testament properly in the period after the death and resurrection of Israel's messiah, God's Son.

Jesus said: "Think not that I am come to destroy the law, or the prophets: I am come not to destroy, but to fulfil. For verily I say unto you, Till heaven and earth pass, one jot or one tittle shall in no wise [way] pass from the law, till all be fulfilled. Whosoever therefore shall break one of these least commandments, and shall teach men so, he shall be called the least in the kingdom of heaven: but whosoever shall do and teach them, the same shall be called great in the kingdom of heaven" (Matt. 5:17–19). Christ took the Old Testament seriously enough to die for those condemned to the second death (Rev. 20:14) by its provisions. The Old Testament is not a discarded first draft of God's word. It is not "God's word (emeritus)."

If anything, the New Testament law is more stringent than the Mosaic law, not less stringent. Paul wrote that an elder cannot have more than one wife (I Tim. 3:2). The king in the Old Testament was forbidden to have multiple wives (Deut. 17:17). This was not a general law, unless we interpret the prohibition of Leviticus 18:18 as applying to all additional wives, and not just to marrying a woman's sister, as ethicist John Murray interpreted it.[47] If we attempt to interpret

47. John Murray, *Principles of Conduct* (Grand Rapids, Michigan: Eerdmans, 1957), Appendix B. Catholic theologian Angelo Tosato agreed with him: "The Law of Leviticus 18:18: A Reexamination," *Catholic Biblical Quarterly*, Vol. 46 (1984), pp. 199–214.

Leviticus 18:18 in Murray's fashion, the question arises: Why specify kings as being prohibited from becoming polygamists if the same law applied to all men anyway? Possibly to prohibit the system of political covenanting through marriage (Solomon is a good example here). Certainly, there is no equally clear-cut Old Testament prohibition against polygamy comparable to I Timothy 3:2, which indicates a tightening of the legal requirements for at least church officers. The New Testament appears to be more rigorous than the Old in this instance. Another alteration in marriage law that we find in the New Testament is the abolition of concubinage that resulted from Christ's fulfillment of the terms of the Old Testament's bride price system (see Chapter 6). There are no more second-class wives.

Dominion Christianity teaches that there are five covenants under God, meaning five kinds of vows under God: dominion (universal), personal (individual), and the three institutional covenants: ecclesiastical, civil, and familial.[48] All other human institutions (business, educational, charitable, etc.) are to one degree or other under the jurisdiction of one or more of these four covenants. No single human covenant is absolute; therefore, no single human institution is all-powerful. Thus, Christian liberty is liberty under God and God's law, administered by plural legal authorities.

1. Biblical Pluralism

There is no doubt that Christianity teaches pluralism, but a very special kind of pluralism: *plural institutions* under God's single comprehensive law system. It does *not* teach a pluralism of law structures, or a pluralism of moralities, for this sort of hypothetical legal pluralism (as distinguished from *institutional* pluralism) is always either polytheistic or humanistic.[49] Christian people are required to take dominion over the earth by means of all three God-ordained institutions' not just the church, or just the state, or just the family. *The kingdom of God includes every human institution, and every aspect of life, for all of life is under God and is governed by His unchanging principles*. All

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They are not followed in this view by most Protestant commentators, nor by Nachmanides, who said that the verse applies only to a woman's sister: Rabbi Moshe ben Nachman [Ramban], *Commentary on the Torah: Leviticus* (New York: Shilo, [1250s?] 1973), p. 255.

48. Ray R. Sutton, *That You May Prosper: Dominion By Covenant* (Tyler, Texas: Institute for Christian Economics, 1987), ch. 4.

49. Gary DeMar, *Ruler of the Nations: The Biblical Blueprints for Government* (Ft. Worth, Texas: Dominion Press, 1987), ch. 3.

of life is under God and God's law because God intends to *judge* all of life *in terms of* His law.[50]

In this structure of *plural* governments, the institutional churches serve as *advisors* to the other institutions (the Levitical function), but the churches can only pressure individual leaders through the threat of excommunication. As a restraining factor on unwarranted church authority, an excommunication by one local church or denomination is always subject to review by another, if and when the excommunicated person seeks membership elsewhere. Thus, each of the three covenantal institutions is to be run under God, as interpreted by its lawfully elected or ordained leaders, with the advice of the churches, not their compulsion.

All Christians are in principle theocrats. All Christians say that God rules the universe. God (*theos*) rules (*kratos*). Theocracy means simply that *God rules*. He rules in every area of life: church, state, family, business, science, education, etc. There is no zone of neutrality. There is no "king's x" from God. Men are responsible for everything they think, say, and do. God exercises total jurisdiction. Jurisdiction means law (*juris*) and speaking (*diction*). God *speaks* His word. It is a comprehensive word. Anyone who says that God's law does not apply to some area of life is thereby saying that God does not have jurisdiction in that area. "No law—no jurisdiction."

2. A Scare Word

The word "theocracy" is a scare word that humanists and frightened Christians use to chase dedicated Christians away from areas of their God-given responsibility. The critics focus on politics and civil government as if God's rule in this area were somehow evil. Because almost all humanists today believe in salvation through legislation,[51] they necessarily believe that politics is the primary means of social healing.[52] The Marxists were the most consistent defenders of human transformation through political action: the religion of revolution.[53] Because Christians are today so used to thinking in these humanis-

50. *Ibid.*, ch. 4.

51. The exceptions to this rule are classical liberals and free market economists like F. A. Hayek and Milton Friedman, traditional conservatives like Russell Kirk and William F. Buckley, neo-conservatives like Irving Kristol, and outright anarchists like Murray N. Rothbard.

52. R. J. Rushdoony, *The One and the Many: Studies in the Philosophy oj Order and Ultimacy* (Vallecito, California: Ross House, [1971] 2007), chaps. 2–5, 8, 9, 11.

53. Gary North, *Marx's Religion of Revolution: Regeneration Through Chaos*, rev. ed. (Tyler, Texas: Institute for Christian Economics, 1989).

tic terms, they seldom think to themselves: "Wait a minute. I know that God rules the family, and the government of my family should reflect this fact. God also rules the church, and the government of my church is supposed to reflect this fact. I know that God rules all civil governments, too. So why should it be evil for Christians to work hard to see to it that the civil government reflects this fact, just as they do in their families, churches, and businesses?" In short, why should politics be outside the realm of God-honoring Christian action?[54]

Humanist critics present Christians with a kind of mental image: a scarecrow that is locked in the stocks of Puritan New England. Every time a Christian walks by this scarecrow, a tape recorded message blares out: "Beware of theocracy! Beware of theocracy!" If the critics meant, "Beware of ecclesiocracy," meaning civil rule by the institutional church, they would have a valid point, but they mean something different: "Beware of Christians in every area of life who seek to exercise biblical dominion under God by obeying and enforcing God's holy law."

What "Beware of theocracy!" really means is, "Beware of God's righteous rule!"

J. The Dismantling of the Welfare-Warfare State

Those who reject the theocratic ideal are ready to accuse Calvinists of being tyrants. Historian Ronald Wells of Calvin College wrote an attack on Francis Schaeffer, which appears in a collection of essays that is best described as a neo-evangelical tirade. He pointed to the unfootnoted and unmentioned links between certain aspects of Schaeffer's social thought and Christian Reconstructionism, and then observed: "This tendency to promote one's own view by 'law' has always been the dangerous part of Calvinism: one sees Calvinists in power as triumphal and dictatorial.... Calvinists in power have wielded that power oppressively."[55]

I suspect that we Reconstructionists were Mr. Wells' target, for we are the only Calvinists calling for the building of a biblical theocracy. What I also suspect is that what really disturbs our neo-evangelical academic critics is that we perceive this theocracy as a system of decentralized power. We call for a vast purging of present-day national

54. George Grant, *The Changing of the Guard: The Biblical Blueprint for Politics* (Ft. Worth, Texas: Dominion Press, 1987).

55. Ronald A. Wells, "Schaeffer on America," in Ronald W. Ruegsegger (ed.), *Reflections on Francis Schaeffer* (Grand Rapids, Michigan: Zondervan Academie, 1986), p. 237.

power, both political and economic. We call for the dismantling of the welfare-warfare state, most notably every aspect of taxpayer-financing for education (except for the national military academies ... maybe).[56] I have called for a reduction of aggregate taxes to the level required by I Samuel 8: where all levels of civil government *combined* are allowed to collect *less than 10%* of the *net increase* of annual private personal productivity.[57] I support the abolition of all state and national direct taxation, which includes the graduated income tax, the Social Security tax, the corporate income tax, the capital gains tax, and all sales taxes. I recommend the abolition of all direct taxation by any agency of civil government above the local township or county; every other level of civil government would be forced to seek its revenues by taxing the level of civil government immediately below it. Civil governments above the most local would have to live off the revenues collected from other civil governments. This would decentralize power with a vengeance. The Reconstructionists' version of theocracy is a decentralized system of multiple competing governments in which the modern messianic state and its economic subsidies would be dismantled. By modern political standards, such a vision of the shrinking of the centralized power civil government is nothing short of utopian.

In short, if the Reconstructionists' version of theocracy were to be voted into operation, the tenured, subsidized intellectual class to which our academic critics belong would experience the end of its taxpayer-financed bonanza. An entire class would have to enter the competitive free market and seek productive employment. Consumers would reward former college professors in terms of what consumers want to buy, not what state legislatures want to buy. There would be no more compulsory education and no more tax support of existing schools. This fear, rather than the fear of tyranny, may well be the true underlying concern of our academic critics.

K. Majority Rule

The Bible does not allow the imposition of some sort of top-down bureaucratic tyranny in the name of Christ. The kingdom of God requires a bottom-up society. The bottom-up Christian society rests

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56. Robert L. Thoburn, *The Children Trap: Biblical Blueprints for Education* (Ft. Worth, Texas: Dominion Press, 1986).

57. Gary North, *Healer of the Nations: Biblical Blueprints for International Relations* (Ft. Worth, Texas: Dominion Press, 1987), p.

ultimately on the doctrine of self-government under God, with God's law as the publicly revealed standard of performance.[58] It is the humanists' view of society that promotes top-down bureaucratic power.

The basis for building a Christian society is evangelism and missions that lead to a widespread Christian revival, so that the great mass of earth's inhabitants will place themselves under Christ's protection, and voluntarily use His covenantal laws for self-government. Christian reconstruction begins with personal conversion to Christ and self-government under God's law, then it spreads to others through revival, and only later does it bring comprehensive changes in civil law, when the vast majority of voters voluntarily agree to live under biblical blueprints.

Let's get this straight: *Christian reconstruction depends on majority rule*. Of course, the leaders of the Christian Reconstruction movement expect a majority eventually to accept Christ as savior. We believe in postmillennialism.[59] Those who do not share our confidence concerning the future success of the gospel, as empowered by the Holy Spirit, believe that an earthly kingdom must be imposed by force from the top down (premillennialism),[60] or else they do not

58. DeMar, *Ruler of the Nations*, ch. 2.

59. David Chilton, *Paradise Restored: A Biblical Theology of Dominion* (Ft. Worth, Texas: Dominion Press, 1985); Roderick Campbell, *Israel and the New Covenant* (Tyler, Texas: Geneva Divinity School Press, [1954] 1981); R. J. Rushdoony, *Thy Kingdom Come: Studies in Daniel and Revelation* (Vallecito, California: Ross House, [1971] 2001).

60. Dave Hunt wrote: "During His thousand-year reign, Christ will visibly rule the world in perfect righteousness from Jerusalem and will impose peace on all nations. Satan will be locked up, robbed of the power to tempt. Justice will be meted out swiftly." Hunt, *Beyond Seduction: A Return to Biblical Christianity* (Eugene, Oregon: Harvest House, 1987), p. 250. If Satan is unable to tempt mankind, then any evil that calls forth Christ's justice must be man-based evil. In a taped interview with Peter Lalonde, released in early 1987, Hunt said: "Christ himself is physically here. And He has us, the redeemed in our resurrection bodies, that nobody can kill us. And we are helping Him to maintain order. He is *forcing* this world to behave, and He gives a restoration of the Edenic state, so that the desert blossoms like a rose, and the lion lies down with the lamb, and you've got paradise on earth, once again, with Christ Himself maintaining it and, even better than the garden of Eden, Satan is locked up for a thousand years." *Dominion and the Cross*, Tape One of *Dominion: The Word and the New World Order, op. cit.*, 1987.

It should be pointed out that Hunt's argument that resurrected saints will return to rule with Jesus during the earthly millennium has long been rejected by dispensational theologians at Dallas Theological Seminary. Resurrected saints will be dwelling in a place called the heavenly Jerusalem, argued J. Dwight Pentecost: "The Relation between Living and Resurrected Saints in The Millennium," *Bibliotheca Sacra*, vol. 117 (October 1960), pp. 335–37. See also John F. Walvoord, *The Rapture Question,* rev. ed. (Grand Rapids, Michigan: Zondervan Academie, 1979), pp. 86–87.

believe in an earthly institutional kingdom at all (amillennialism).[61] Postmillennialists disagree, for several reasons.

Premillennialism and amillennialism both deny that the preaching of the gospel can ever bring a majority of people to faith in Christ, thereby bringing in the earthly kingdom of God in history on a voluntary basis, person by person, culture by culture. Premillennialist author Dave Hunt went so far as to argue that such a person-by-person extension of God's kingdom is literally impossible for God to achieve.[62] Thus, in order to produce universal peace on earth, premillennialists have always maintained, Jesus will have to impose a top-down bureaucracy when He comes to reign in person. In opposition to this view, amillennialists deny the premillennial doctrine that Jesus will ever physically return in history. They insist (as postmillennialism also insists) that Jesus will physically appear only at the end of history at the final judgment. They therefore deny (in contrast to postmillennialism) the possibility of an earthly manifestation of God's comprehensive kingdom of God in history.

Because of their denial of the widespread acceptance of the gospel at any point in history, premillennialists and amillennialists alike invariably associate the word "theocracy" with some sort of top-down, power-imposed, widely resisted rule that is imposed by an elite. Premillennialists accept this as a valid system of civil rule, but only if Christ personally and physically runs it from the top of the bureaucratic pyramid. Amillennialists deny that Christ will ever do this in history, so they deny bureaucratic theocracy's legitimacy at any point in the pre-final judgment future.

1. The Work of the Holy Spirit

First, we Calvinistic postmillennialists disagree with both groups concerning the supposed impotence of the gospel in history in chang-

61. Oddly enough, Hunt also denied that there can ever be an earthly kingdom, even in the dispensational millennium. He said in his taped interview: "What happens at the end of this time, when Satan is loosed? He deceives the nations and like the sand of the seashore, so many—a multitude. They gather their armies and come against Christ in Jerusalem. And, of course, that is when they finally have to be banished from God's presence forever. I believe it's the final proof of the incorrigible nature of the human heart. So, Christ Himself cannot make humanity behave. He cannot by legislation, or by political or military or coercive means, establish this kingdom." *Ibid.*, Tape Two.

62. "In fact, dominion-taking dominion and setting up the kingdom for Christ—is an impossibility, even for God. The millennial reign of Christ, far from being the kingdom, is actually the final proof of the incorrigible nature of the human heart, because Christ Himself can't do what these people say they are going to do—New Agers or Manifested Sons." (Verbal emphasis in the original interview.) *Dominion*, Tape Two.

ing whole societies, person by person. We believe that the Holy Spirit will *impose* His will on the recalcitrant hearts of huge numbers of people, just as He has always imposed His will on each recalcitrant heart every time He has saved anyone from his sins. God is utterly sovereign in election and salvation. He changes people's hearts, transforming them so that they can respond in faith to the free offer of the gospel. "The king's heart is in the hand of the LORD, as the rivers of water: he turneth it whithersoever he will" (Prov. 21:1). This is the only way anyone has ever been saved, for the natural man does not receive the things of the Spirit, for they are foolishness to him (I Cor. 2:14). The natural man does not partially receive the things of the Spirit in his unsaved state; he rejects the very idea that such a wrathful God exists. Thus, he needs to be transformed before he can accept the gospel.

Second, because we Calvinistic Christian Reconstructionists believe that the Holy Spirit forces hearts to change—the doctrine of irresistible grace—we also believe that human institutions are not allowed to seek to coerce men's hearts and minds. Such coercion of the human will—its transformation prior to the prior permission of the individual whose will is being transformed—is a monopoly that belongs exclusively· to God. We must recognize that coercion is an inescapable concept in history. It is never a question of coercion vs. no coercion. It is always a question of *whose* coercion. We affirm the power of the Holy Spirit to change men's souls—to declare judicially that they are saved, and therefore possess Christ's righteousness—and to change them ethically at the point of their ethical transformation. Those who deny this exclusive power of the Spirit in transforming the lives of covenant-breakers instinctively expect to find coercion somewhere else: in human institutions—either humanist or "theocratic-bureaucratic"—or in a future personal kingdom ruled by Christ in Person.

Third, because we postmillennialists find it taught in the Bible that there will be a future outpouring of this soul-transforming Holy Spirit—the only possible basis of the Bible's prophesied millennial blessings—we disagree with premillennialists and amillennialists concerning the limited extent of the Spirit's work in the future. The kingdom will not be brought in by a bureaucratic theocratic regime, but by the heart-transforming work of the Holy Spirit. We therefore disagree with them concerning the supposed necessity of defining theocracy as a top-down social transformation. God's kingdom rule is always bottom-up: *self-government under God*. So, we do not call for a theocratic bureaucracy, either now or in the future. Such a top-down

bureaucracy is not called for in the Bible, is impossible to maintain without unlawful coercion, and is not necessary to impose to bring in the kingdom. Christian Reconstructionists call instead for a decentralized, international, theocratic *republic*. Such a republic is ethically necessary, now and in the future, and it will be historically possible in the future, when the Holy Spirit begins His visibly triumphant sweep of the nations.

If postmillennialism is incorrect, and the Holy Spirit does not act to bring huge numbers of people to eternal life, then Christians must be content with only partial social reconstruction, and only partial external blessings from God. The earthly manifestations of God's heavenly kingdom will necessarily be limited. When we pray, "Thy kingdom come, thy will be done in earth, as it is in heaven," we should expect God to answer this prayer. But many Christians teach that God will never answer this prayer before Jesus comes again physically to rule the world in person. If they are correct, then we will not see the pre-second coming advent of a holy commonwealth in which God's laws are honored. We must content ourselves with less.

It is not possible to ramrod God's blessings from the top down, unless you are God. Only humanists think that man is God. Christians are simply trying to get the ramrod away from them, and to melt it down. This melted ramrod could then be used to make a great grave marker for humanism: "The God That Failed."

L. The Continuing Heresy of Dualism

Dualism teaches that the world is inherently divided: spirit vs. matter, or law vs. mercy, or mind vs. matter, or nature vs. grace. What the Bible teaches is that this world is divided *ethically* and *personally*: Satan vs. God, right vs. wrong, freedom vs. tyranny. The conflict between God and Satan will end at the final judgment. Whenever Christians substitute some other form of dualism for ethical dualism, they fall into heresy and suffer the consequences. That is what has happened today. We are suffering from revived versions of ancient heresies.

1. Marcion's Dualism

The Old Testament was written by the same God who wrote the New Testament. There were not two Gods in history, meaning there was no dualism or radical split between the two testamental periods. There is only one God, in time and eternity.

This idea has had opposition throughout church history. An an-

cient two-Gods heresy was first promoted in the church about a century after Christ's crucifixion, and the church has always regarded it as just that, a heresy. It was proposed by a man named Marcion. Basically, this heresy teaches that there are two completely different law systems in the Bible: Old Testament law and New Testament law (or non-law). But Marcion took the logic of his position all the way. He argued that two law systems means two Gods. The God of wrath wrote the Old Testament, and the God of mercy wrote the New Testament. In short: "two laws–two Gods."

You would be surprised how many Christians still believe something dangerously close to Marcionism: not a two-Gods view, exactly, but a "God-who-changed-all-His-rules" sort of view. They begin with the accurate teaching that the ceremonial laws of the Old Testament were fulfilled by Christ, and therefore that the *unchanging principles* of worship are *applied differently* in the New Testament, but then they erroneously conclude that the whole Old Testament system of civil law was dropped by God, and *nothing biblical was put in its place*. In other words, God created a sort of vacuum for state law.

This idea turns civil law-making over to Satan. In our day, this means that civil law-making is turned over to humanism. *Christians have unwittingly become the philosophical allies of the humanists with respect to civil law*. With respect to their doctrine of the State, therefore, most Christians hold what is in effect a two-Gods view of the Bible.

2. Gnostic Dualism

Another ancient heresy that is still with us is gnosticism. It became a major threat to the early church almost from the beginning. It was also a form of dualism, a theory of a radical split. The gnostics taught that the split is between evil matter and good spirit. Thus, their goal was to escape this material world through other-worldly exercises that punish the body. They believed in *retreat from the world* of human conflicts and responsibility. Some of these ideas got into the church, and people started doing ridiculous things. So-called "pillar saints" became temporarily popular in the fifth century, A.D. A "saint" would sit on a platform on top of a pole for several decades without coming down. This was considered very spiritual.[63] (Who fed them? Who cleaned up after them?)

Thus, many Christians came to view "the world" as something

63. Kenneth Scott Latourette, *A History of Christianity* (New York: Harper & Row, 1953), pp. 228, 298.

permanently outside the kingdom of God. They believed that this hostile, forever-evil world cannot be redeemed, reformed, and reconstructed. At best, it can be subdued by power (maybe). Jesus did not really die for it, and it cannot be healed. This dualistic view of the world vs. God's kingdom narrowly restricted any earthly manifestation of God's kingdom. Christians who were influenced by gnosticism concluded that God's kingdom refers only to the institutional church. They argued that the institutional church is the only manifestation of God's kingdom.

This led to two opposite and equally evil conclusions. First, power religionists who accepted this definition of God's kingdom tried to put the institutional church in charge of everything, since it is supposedly "the only manifestation of God's kingdom on earth." To subdue the supposedly unredeemable world, which is forever outside the kingdom, the institutional church has to rule with the sword. The institutional church must give orders to the state, and the state must enforce these orders with the sword. The institutional church must therefore concentrate political and economic power. *What then becomes of liberty?*

Second, escape religionists who also accepted this narrow definition of the kingdom sought refuge from the evil world of matter and politics by fleeing to hide inside the institutional church, an exclusively "spiritual kingdom," now narrowly defined. They abandoned the world to evil tyrants. *What then becomes of liberty?* What becomes of the idea of God's progressive restoration of all things under Jesus Christ? What, finally, becomes of the idea of biblical dominion?

When Christians improperly narrow their definition of the kingdom of God, the visible influence of this comprehensive kingdom (both spiritual and institutional at the same time) begins to shrivel up. The first heresy leads to tyranny *by* the church, and the second heresy leads to tyranny *over* the church. Both of these narrow definitions of God's kingdom destroy the liberty of the responsible Christian man, self-governed under God and God's law.

3. Manichaean Dualism

The last ancient pagan idea that still lives on is also a variant of dualism: matter vs. spirit. It teaches that God and Satan, good and evil, are forever locked in combat, and that good never triumphs over evil. The Persian religion of Zoroastrianism has held such a view for over 2,500 years. The incredibly popular *Star Wars* movies were based on this view of the world: the "dark" side of "the force" against its "light"

side. In modern versions of this ancient dualism, the "force" is usually seen as itself impersonal: individuals personalize either the dark side or the light side by "plugging into" its power.

There are millions of Christians who have adopted a very pessimistic version of this dualism, though not in an impersonal form. God's kingdom is battling Satan's, and God's is losing. History is not going to get better. In fact, things are going to get a lot worse externally. Evil will visibly push good into the shadows. The church is like a band of soldiers who are surrounded by a huge army of Indians. "We can't win, boys, so hold the fort until Jesus and the angels come to rescue us!"

That does not sound like Abraham, Moses, Joshua, Gideon, and David, does it? Christians read to their children the children's favorite story, David and Goliath, yet in their own lives, millions of Christian parents really think that the Goliaths of this world are the unbeatable earthly winners. Christians have not even picked up a stone.

Until very recently.

Conclusion

We must not come to the Old Testament with a sense of fear and loathing. The Old Testament provides us with a vision of victory and the tools of dominion, namely, God's laws. These laws are not a threat to us as Christians; they are the foundation of our efforts to reconstruct society.

Christians have not wanted to think about God's law. It reminds them of their sins of commission. It also reminds them of their sins of omission. They have failed to press the claims of Jesus Christ in every area of life. They have failed to challenge the sins of this age.

They have refused to tell the world that God really does have specific answers for every area of life, including economics and politics. Christians have preferred to comfort themselves as they have sat in their rocking chairs in the shadows of history, rocking themselves back and forth, and saying over and over: "I am not a theocrat. I am not a theocrat."

What this phrase means is simple: *God does not rule, so neither will I.*

But what if God *does* rule? What if He has given us the unchanging laws by which He expects His people to rule? What if He has given us the tools of dominion, and we have left them in the rain to rust? What will He do with our generation?

Just what He did with Moses' generation: He will leave them behind to die in the wilderness.

APPENDIX R

WHAT IS COVENANT LAW?

> *Behold, I have taught you statutes and judgments, even as the* Lord *my God commanded me. that ye should do so in the land whither ye go to possess it. Keep therefore and do them; for this is your wisdom and your understanding in the sight of the nations. which shall hear all these statutes. and say Surely this great nation is a wise and understanding people. For what nation is there so great, who hath God so nigh unto them, as the* Lord *our God is in all things that we call upon him for? And what nation is there so great, that hath statutes and judgments so righteous as all this law, which I set before you this day?*
>
> DEUTERONOMY 4:5–8

These verses teach clearly that the law of God is a tool of world-wide evangelism. The nations of the earth will recognize the justice that is provided by God's revealed law, as well as see the external blessings that inevitably come to any society that covenants itself to God, and subsequently adheres to the ethical terms of God's covenant. It is crucially important to maintain that these blessings will be visible (Deut. 28:1–14).[1] The Bible is insistent: *there is an inescapable cause-and-effect relationship between national covenantal faithfulness and national prosperity*. Adherence to biblical law *inevitably* produces visible results that are universally regarded as beneficial. Why do covenant-breakers recognize this? Because all men have the work of God's law written on their hearts (Rom. 2:14–15),[2] so they can and do perceive the blessings of God. This, God promised, would be the visible sign of Israel's wisdom, visible to the ends of the earth.

1. Gary North, *Inheritance and Dominion: An Economic Commentary on Deuteronomy*, 2nd ed. (Dallas, Georgia: Point Five Press, [1999] 2012), ch. 69.

2. Gary North, *Cooperation and Dominion: An Economic Commentary on Romans*, 2nd ed. (Dallas, Georgia: Point Five Press, [2000] 2012), ch. 3.

It is not remarkable that humanists deny the existence of this covenantal and historical cause-and-effect relationship, for such a relationship points beyond history to the existence of a sovereign Creator and Judge who will hold them eternally responsible on judgment day. They hold back the truth in unrighteousness (Rom. 1:18).[3] What is remarkable, however, is that this view of revealed biblical law as presently applicable to society is not widely believed by Christians. They believe that the cause-and-effect relationship between obedience to God's law and His positive blessings in history is just barely true within the socially and culturally narrow confines of the local church congregation and the Christian family. With respect to the authority of God's law in society, fundamentalist Christians deny it, neo-evangelical scholars deny it, and even traditional Reformed theologians deny it, and for the same reason: such a view of God's law makes Christians personally and corporately responsible for obeying God, for receiving the promised external blessings, and for using this real-world capital for the fulfillment of God's dominion covenant[4]—extending His kingdom (civilization) across the face of the earth.

In contrast, Christian Reconstructionists loudly affirm biblical law as a means of both evangelism and dominion. Indeed, *the affirmation of a long-term relationship between covenant-keeping and external blessings in history, as well as covenant-breaking and external cursings in history, is the heart and soul of the Christian Reconstructionist position on social theory, its theological identifying mark*.[5] This overwhelming confidence in the long-term historical efficacy of the biblical covenant is the reason why Christian Reconstructionists self-consciously claim to be the most consistent of all covenant theologians in history. It is also why we are confident that our view of the biblical covenant will eventually be triumphant in history. After all, God blesses covenant-keeping in history, and covenant-believing is surely an integral aspect of covenant-keeping. No doubt our confidence makes us insufferable in other theological circles, but such is always the effect of faith in God's covenant. Pharaoh found Moses insufferable, and he banished Moses from his presence (Ex. 10:28). The Hebrew leaders had earlier tried to do the same thing (Ex. 5:19–21). Bear in mind that Moses refused to

3. *Ibid.*, ch. 2.

4. Gary North, *Sovereignty and Dominion: An Economic Commentary on Genesis* (Dallas, Georgia: Point Five Press, 2012), chaps. 3, 4.

5. There are other marks, of course, but this is its unique mark. No other theological movement proclaims this ethical cause-and-effect relationship in society. Indeed, all other Christian positions explicitly deny it.

leave Egypt until he took the people with him. Christian Reconstructionists have the same attitude.

A. God's Sanctions and Positive Feedback in History

God's visible, external covenantal blessings serve as a means of confirming His people's confidence in the reliability of His covenant. Christians are required to affirm the existence of a normative, covenantal relationship of *positive feedback in history*. God intends His covenant to work this way: "But thou shalt remember the Lord thy God: for it is he that giveth thee power to get wealth, *that he may establish his covenant* which he sware unto thy fathers, as it is this day" (Deut. 8:18).[6] In short: more obedience, more blessings; more blessings, more confirmation; more confirmation, greater obedience. This is covenantal positive feedback in history. This is Christianity's standard of ethical performance, both personally and corporately.[7] God brings His sanctions in history, positive and negative, in terms of men's public conformity to His revealed law.

We have read that the power to get wealth is one of God's positive covenant sanctions in history.[8] This is a New Testament teaching, too: "Every good gift and every perfect gift is from above, and cometh down from the Father of lights, with whom is no variableness, neither shadow of turning" (James 1:17).[9] How is this steadfastness of God revealed in history? By the predictability of His historical sanctions in response to men's responses to the unchanging principles of His covenant law. Conversely—much to the outrage of political liberals and most academic neo-evangelicals—long-run poverty is one of God's negative sanctions in history.[10] Such a view of history is unacceptable to the Christian world generally, and especially to university-trained Christian intellectuals. Why? Because such a view is utterly hostile

6. North, *Inheritance and Dominion*, ch. 22.

7. These sanctions apply more clearly to corporate bodies than to individuals, rather than the other way around, contrary to what pietism teaches. We know that righteous individual covenant-keepers can suffer cursings in history, as the Book of Job teaches. What the Bible teaches is that *in the aggregate* (corporately), and *in the long run*, God's covenant sanctions are reliable and predictable.

8. Gary North, "Free Market Capitalism," in Robert G. Clouse (ed.), *Wealth and Poverty: Four Christian Views on Economics* (Downers Grove, Illinois: InterVarsity Press, 1984), pp. 27–65.

9. Gary North, *Ethics and Dominion: An Economic Commentary in the Epistles* (Dallas, Georgia: Point Five Press, 2012), ch. 34.

10. Gary North, *Unholy Spirits: Occultism and New Age Humanism* (Ft. Worth, Texas: Dominion Press, 1986), ch. 8.

to the God-denying worldview of Darwinism, which contemporary Christians have adopted far more than they are aware of. Darwinism teaches that there is no supernatural force in history. Until the advent of man, there was no direction to history, no morality, and no purpose. Only with the appearance of man in history does cosmic personalism appear. Man proposes, and man disposes.[11] Man extends dominion in the name of the human species. Man, and only man, brings meaningful sanctions in history. Autonomous man is the sovereign judge in history, not God. This man-centered theology is the heart of Darwinism, not its technical discussions about genetic or environmental changes.[12]

This view of history is basic to all of modern scholarship, and the vast majority of those teaching social theory and social ethics in Christian colleges have adopted the basic anti-covenantal perspective of this worldview, at least with respect to New Testament era history. The assertion that nations remain poor because they are breaking the external terms of God's covenant outrages the modern Christian intellectual. It was not random that in its hatchet job on the Christian Reconstructionists, *Christianity Today* ran a clever (though a bit malicious) cartoon of me brandishing a giant dripping pen (blood rather than ink) with my statement nearby: "The so-called underdeveloped societies are underdeveloped because they are socialist, demonist, and cursed."[13] I really did say this, I have defended it in print,[14] and author Rodney Clapp cited if because he apparently regarded it as the most offensive statement that he could locate in his rather cursory examination of my writings. He recognized that the neo-evangelical audience of *Christianity Today* would take great offense at such a statement.[15]

What I am arguing here is simple: those people who truly believe that God's multi-institutional covenant is binding also necessarily believe that it is *historically and judicially* binding with respect to all three covenant (oath-bound) institutions: family, church, and State. Con-

11. This was actually stated by Frederick Engels, the co-founder of Communism: "...man no longer merely proposes, but also disposes.... " Engels, *Herr Eugen Diihring's Revolution in Science* (London: Lawrence & Wishart, [1878] 1934), p. 348.

12. North, *Sovereignty and Dominion*, Appendix A.

13. Rodney Clapp, "Democracy as Heresy," *Christianity Today* (Feb. 20, 1987), p. 23.

14. North, *Unholy Spirits*, ch. 8. This chapter also appeared in the original version of this book, *None Dare Call It Witchcraft* (New Rochelle, New York: Arlington House, 1976).

15. Keynensian William Diehl took offense at this cause-and-effect explanation of *culture-wide* poverty, citing in response Jesus' denial of this relationship in the case on an *individual* blind man (John 9:1–3): "A Guided-Market Response," in Clouse (ed.), *Wealth and Poverty*, pp. 71–72. Art Gish was also upset: *ibid*., p. 78.

versely, if people do not believe that God's covenant is historically and judicially binding with respect to nations and local civil governments, then they have denied the relevance of Deuteronomy 4:5–6. They implicitly believe that the biblical doctrine of God's national covenant is some kind of New Testament theological "limiting concept," a kind of theoretical backdrop to history that no longer has any point of contact with the actual realm of historical cause and effect. Such a view of God's covenant I call *antinomian*: a denial of the law's effects in history. It reflects what I call halfway covenant thinking.

B. "Pro-nomianism" Defined

What do I mean by the term "antinomian"? To answer this, I need to offer a description of "pro-nomianism," meaning a defense of what God's law is and what it accomplishes, especially in history. I begin with a survey of Ray Sutton's application of the five-point biblical covenant.[16] Sutton argues that the biblical covenant has five parts:

1. Transcendence (sovereignty), yet immanence (presence)
2. Hierarchy/authority/representation
3. Ethics/law/dominion
4. Oath/judgment/sanctions (blessings, cursings)
5. Succession/continuity/inheritance

While this terminology is slightly different from that which he adopted in his book, it is an accurate representation.[17] This structure has become an integrating framework for the entire *Economic Commentary on the Bible*.

I use this structure to develop the "pro-nomianism" of Christian Reconstruction. It is the basis of my definition of anti-nomianism. I use the biblical covenant as the source of definition because I have long maintained that language as well as everything else must be governed by the Bible. As I wrote in 1973, "Neutrality does not exist. Everything must be interpreted in terms of what God has revealed. The humanistic goal of neutral language (and therefore neutral law) was overturned at the Tower of Babel. Our *definitions* must be in terms of *biblical revelation*."[18]

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16. Ray R. Sutton, *That You May Prosper: Dominion By Covenant* (Tyler, Texas: Institute for Christian Economics, 1987).

17. A correspondent to Sutton sent in the new version because it can be used to create an acronym: THEOS.

18. Gary North, "In Defense of Biblical Bribery," in R. J. Rushdoony, *The Institutes of Biblical Law* (Nutley, New Jersey: Craig Press, 1973), p. 843.

As a representative example of the structure of the biblical covenant, I have selected Isaiah 45. From it we can get some sense of how the covenant works in history. We can also discuss the covenant's relation to biblical law.

1. Transcendence/Immanence

We must begin where the Bible does: the creation of all things by God (Gen. 1:1). We must maintain an absolute distinction between the Creator and the creature. God is the absolutely sovereign Master of all that comes to pass in history. Nothing takes place outside His sovereign decree. "I form the light, and create darkness: I make peace, and create evil: I the LORD do all these things" (Isa. 45:7).[19] "I have made the earth, and created man upon it: I, even my hands, have stretched out the heavens, and all their host have I commanded" (Isa. 45:12). "For thus saith the LORD that created the heavens; God himself that formed the earth and made it; he hath established it, he created it not in vain, he formed it to be inhabited: I am the Lord; and there is none else" (Isa. 45:18).

Isaiah uses the familiar (but extremely unpopular) biblical imagery of the potter and his clay: "Woe unto him that striveth with his Maker! Let the potsherd [strive] with the potsherds of the earth. Shall the clay say to him that fashioned it, What makest thou? Or thy work, He hath no hands? Woe unto him that saith unto his father, What begettest thou? Or to the woman, What hast thou brought forth?" (Isa. 45:9–10).[20] These words became the basis of Paul's argument regarding the absolute sovereignty of God in choosing to save one person and not another. It is the classic argument in the Bible for the doctrine of *election*. Paul says of Pharaoh: "For the scripture saith unto Pharaoh, Even for this same purpose have I raised thee up, that I might shew my power in thee, and that my name might be declared throughout all the earth" (Rom. 9:17). This explains the words in Exodus: 'And he hardened Pharaoh's heart, that he hearkened not unto them; as the LORD had said" (Ex. 7:13). But this means that God keeps some men from responding positively to the universal offer of salvation. This keeps them from obeying His law.

19. This does not mean that God is the author of sin. This verse speaks covenantally: God brings evil times to those who defy Him.

20. I have used brackets to indicate the italicized inserted words of the King James translators. Normally, I do not do this, preferring instead not to disrupt the flow of biblical language. But my arguments here are sufficiently controversial that I do not want critics saying that I relied on the translators to make my points.

The believer in free will (a degree of human autonomy outside of God's eternal decree) then asks: "How can any sinner therefore be personally responsible for his sin?" Paul well understood this line of reasoning, to which he replied:

> Therefore hath he mercy on whom he will [have mercy], and whom he will he hardeneth. Thou wilt say then unto me, Why doth he yet find fault? For who hath resisted his will? Nay but, O man, who art thou that repliest against God? Shall the thing formed say to him that formed [it], why hast thou made me thus? Hath not the potter power over the clay, of the same lump to make one vessel unto honor, and another unto dishonor? (Rom. 9:19–21).

Paul appealed directly to the biblical doctrine of creation—the imagery of the potter and the clay—in order to cut short every version of the free will (man's autonomy) argument. There is no area of chance or contingency in history. None. It is unlawful even to appeal to this line of reasoning, Paul said: "Who art thou that thou repliest against God?" The doctrine of the moral and legal responsibility of man before God must always be understood in terms of the absolute decree of God; it must never be defended in terms of the idea that man has a zone of uncontrolled decision-making at his disposal. Man's responsibility must be understood therefore in terms of the biblical doctrine of creation.

The biblical doctrine of creation teaches the sovereignty of God in electing some people to salvation. This is why so few Christians accept the biblical doctrine of the six-day creation, and why they are ready to compromise with this or that version of evolution. They want to affirm the partial sovereignty (partial autonomy) of man. They do so in terms of the pagan idea of *chance*: a realm of decision-making, of cause and effect, outside of God's absolute providential control and absolute predestination. They refuse to accept the words of Paul in Ephesians: "According as he hath chosen us in him before the foundation of the world, that we should be holy and without blame before him in love: Having predestinated us unto the adoption of children by Jesus Christ to himself, according to the good pleasure of his will" (Eph. 1:4–5).

The biblical doctrine of creation leads directly and inescapably to the biblical doctrine of the absolute providence of God. God creates and sustains all things in history. Speaking of Jesus Christ, Paul writes: "For by him were all things created, that are in heaven, and that are on earth, visible and invisible, whether [they be] thrones, or

dominions, or principalities, or powers: all things were created by him, and for him: And he is before all things, and by him all things consist" (Col. 1:16–17). Nothing lies outside the sovereign providence of God. There is no area of contingency. There is no area of neutrality. There is no area that is outside the eternal decree of God or the law of God. This is the biblical doctrine of creation. Humanists hate it, and so do the vast majority of Christians today.

God as Creator brings all things to pass. When He says, "It shall come to pass," it comes to pass. "Declaring the end from the beginning, and from ancient times [the things] that are not [yet] done, saying, My counsel shall stand, and I will do all my pleasure" (Isa. 46:10). God does not simply know the future that He predicts; He causes the future to take place. There is no element of chance anywhere in the universe.

Consider the greatest crime in history: the betrayal and crucifixion of Jesus Christ. The act of betrayal by Judas was predetermined by God; nevertheless, Judas was still held fully responsible for this act. "And truly the Son of man goeth, as it was determined: but woe unto that man by whom he is betrayed!" (Luke 22:22). And what of those who unlawfully, defiantly condemned Jesus Christ to death? They were all predestined by God to do it.

> The kings of the earth stood up, and the rulers were gathered together against the Lord, and against his Christ. For of a truth against thy holy child Jesus, whom thou hast anointed, both Herod, and Pontius Pilate, with the Gentiles, and the people of Israel, were gathered together. For to do whatsoever thy hand and thy counsel determined before to be done (Acts 4:26–28).

So, the Bible teaches man's personal responsibility and God's absolute predestination. If God was willing to predestinate the greatest crime in history, holding the criminals fully responsible, then surely He is willing to bring to pass all the other relatively minor crimes in history, also holding each criminal responsible. God's law touches everything, and each man is fully responsible for his thoughts and actions; he must obey the whole of God's law.

God did not create the world and then depart, leaving it to run by itself until the final judgment (Deism's god). He is present everywhere, but He is specially present with His people. He delivers them. But He also gives His law to them. He runs everything, yet men are made in His image, and they have the ability to understand the external world. They are responsible to God because God is totally

sovereign. He has laid down the law, both moral and physical. His word governs all things. No appeal to the logic of autonomous man (free will) can change this.

2. Hierarchy/Authority/Representation

"Look unto me, and be ye saved, all the ends of the earth: for I am God, and [there is] none else. I have sworn by myself, the word is gone out of my mouth [in] righteousness, and shall not return, That unto me every knee shall bow, every tongue shall swear" (Isa. 45:22–23). In these verses we find four points of the covenant: sovereignty (point one), oath (point four), righteousness (point three), and hierarchy (point two). Every knee shall bow. There is hierarchy in this world.

But knees shall also bow to Israel, if Israel remains faithful to God. "Thus saith the LORD, The labour of Egypt, and merchandise of Ethiopia and of the Sabeans, men of stature, shall come over unto thee, and they shall be thine: they shall come after thee; in chains they shall come over, and they shall fall down unto thee, they shall make supplication unto thee, saying, Surely God is in thee; and there is none else, there is no God" ["no other God": New King James Version] (Isa. 45:14). Israel represents God in history, and the nations will, *if Israel remains covenantally faithful*, become Israel's bond-servants.

This means that men who disobey God's law are required to do what they are told by those officers who declare God's law as His lawful covenantal representatives. These representatives speak in God's name through *covenantal institutions*. There is inescapable corporate responsibility in history. Nations will obey God and His representatives, said Isaiah, even if their citizens must be brought to judgment in chains.

In Israel, civil law was enforced hierarchically: a bottom-up appeals court system (Ex. 18).[21] This is also true of church courts (Matt. 18:15–18). Thus, officers speak *representatively*: God's representatives before men, and men's representatives before God. This doctrine of representation is the basis of mankind's *corporate* dominion over nature (Gen. 1:26–28). Men are under God and God's law corporately; they are to exercise dominion corporately by bringing the whole earth under God's law. Thus, biblical law is a tool of dominion.

Hierarchical representation is also the basis of covenantal governments' corporate responsibility before God: church, State, and

21. Chapter 19.

family. Collective units are given laws to enforce; God holds them responsible to Him through representatives. Sodom and Gomorrah were destroyed; Egypt and Babylon were destroyed. Israel and Judah were scattered. Classical Greece and Rome fell. There is both personal and corporate responsibility before God.

3. Ethics/Law/Boundaries

"Drop down, ye heavens, from above, and let the skies pour down righteousness: let the earth open, and let them bring forth salvation, and let righteousness spring up together; I the LORD have created it" (Isa. 45:8). The whole cosmos is described here as being filled with righteousness. Righteousness is the basis of man's dominion over the earth.

But righteousness must be defined. This is what God's law does. It establishes *boundaries* to our lawful actions. The tree of the knowledge of good and evil was "hedged in" by God's law. Adam and Eve were not to eat from it, or as Eve properly interpreted, even touch it (Gen. 3:3).

These ethical boundaries are not exclusively personal; they are also corporate. There are biblical laws given by God that are to govern the actions of families, churches, and civil governments. Autonomous man would like to think that God's law has nothing to do with his institutions, especially civil government, but autonomous man is in rebellion. God's law is not restrained by autonomous man's preferred boundaries. It is not man who lawfully declares: "Fear ye not me? saith the LORD: will ye not tremble at my presence, which have placed the sand [for] the bound of the sea by a perpetual decree, that it cannot pass it: and though the waves thereof toss themselves, yet can they not prevail; though they roar, yet can they not pass over it? But this people hath a revolting and a rebellious heart; they are revolted and gone. Neither say they in their heart, Let us now fear the LORD our God, that giveth rain, both the former and the latter, in his season: he reserveth unto us the appointed weeks of the harvest" (Jer. 5:22–24).

Notice the development of God's argument, which is in fact a *covenant lawsuit* brought against Judah by His prophet, Jeremiah. God sets boundaries to the sea, the seasons, and the harvest. The implication is that He also sets *legal and moral boundaries* around people, both as individuals and nationally. Men are to fear this God who sets cosmic boundaries. How is this required fear to be acknowledged?

The prophets answered this question over and over, generation after generation: *by obeying God's law*.

4. Oath/Judgment/Sanctions

"I have sworn by myself, the word is gone out of my mouth [in] righteousness, and shall not return, That unto me every knee shall bow, every tongue shall swear" (Isa. 45:23). His word is sufficient. He will not go back on His word. He has sworn by His own name. God has therefore taken a covenantal oath that in the future, every human knee shall bow, and every human tongue shall swear. There is no escape from God's authority; and therefore all mouths shall swear—they shall acknowledge His sovereignty, either on earth or in the afterlife. Even in the lake of fire, they must eternally swear that God is who He says He is.

God's law is our standard, both individually and corporately. There are covenantal institutions that are bound by the revealed law of God: church, State, and family. These are the three covenantal institutions that God has established to declare and enforce His law. All institutions must obey, but these are those that are exclusively governed by formal oaths before God.

What is an oath? It is the calling down on one's head the negative sanctions of God. If a person or covenanted institution disobeys the law of God, then God comes in wrath to punish the rebels. He comes in history. This was the warning of the Old Testament prophets. On the other hand, if men repent and obey, God is merciful and will bless them. "Your iniquities have turned away these [things]," Jeremiah warned Judah regarding the rain and the harvest, "and your sins have withholden good [things] from you" (Jer. 5:25). The prophets came in the name of God as covenantal representatives, calling individuals, as well as representative kings and priests, to repent, to turn back to God's law and thereby avoid God's negative sanctions in history.

The passage above all others in the Bible that describes the historical sanctions of God is Deuteronomy 28. Verses 1–14 describe the blessings (positive sanctions), and verses 15–68 describe the cursings (negative sanctions). Understand, these are *historical* sanctions. They are not appropriate sanctions for the final judgment. In this sense, they are *representative sanctions* of eternity's sanctions, what Paul called the "earnest" or *down payment* of God in history on what must inevitably come in eternity (Eph. 1:14).

5. Succession/Continuity/Inheritance

"In the LORD shall all the seed of Israel be justified, and shall glory" (Isa. 45:25). Because God is the Creator, His people will inherit the earth: "The earth is the LORD's, and the fulness thereof; the world, and they that dwell therein" (Ps. 24:1). (This is point one of the covenant.) Psalm 25:12–13 provides the covenantal promise:

> What man [is] he that feareth the LORD? Him shall he teach in the way [that] he shall choose (v. 12). His soul shall dwell at ease; and his seed shall inherit the earth (v. 13).

God is to be feared (point one). God teaches man (subordination: point two) the required way (point three). The man's soul shall dwell in ease (point four), and his heirs shall inherit (point five). These two brief verses set forth God's covenant, and in these verses we can see the outline of God's plan of history for covenant keepers. This is so simple that a child can grasp it. Unfortunately, as we shall see, very few theologians have.

My point is that these verses refer to history. The fear of God is historical. God's instruction to man is historical. The law applies in history. The man is spiritually blessed in history: his soul is at ease. His heirs shall inherit.

Some commentators might agree regarding the historical reference of points one through three, but object to my view of point four. Perhaps the focus of the verse is exclusively internal. After all, the covenant-keeper's soul is what is spoken of. Perhaps the blessings are not visible in history. My response is to ask a question: Why should point four—spiritual ease—be confined to only the inner person? If the inheritance is historical, then the spirit's ease must refer to contentment regarding the past, present, and future. Only if the inheritance will be post-historical could the ease of the soul be legitimately confined to the internal realm. The covenant-keeper is at ease in history because he is confident about the future success of those who share his faith. It is his *seed* that will inherit.

If the inheritance of the whole earth is merely symbolic of the inheritance of God's resurrected people, then why refer to the inheritance delivered to a man's seed? In eternity, this inheritance will be his, too. In short, the primary focus of the passage is *on* history, not eternity. Fear God *now*. Learn from God *now*. Obey God's law *now*. Experience spiritual contentment *now*. Why? Because your spiritual heirs will inherit in the *future*: in time and on earth.

Yet there are theologians, especially Calvinists in the Continental (Dutch) tradition, and all Lutherans, who insist that this promised inheritance is strictly limited to the post-final judgment world of eternity. The first point—the fear of God—is historical, but personal rather than corporate. The second—being taught by God—is historical, but personal rather than corporate. The third—obeying the law of God—applies in history, but is exclusively personal, familial, and ecclesiastical—never civil. The fourth—spiritual ease—is historical but exclusively internal. Why these restrictions on the first four points? Because the fifth—inheriting the earth—is seen as exclusively post-historical.

Summary

The definition of pro-nomianism must begin and end with the biblical concept of the covenant. All five points of the biblical covenant must be included in any valid definition of biblical law. We should not expect to be able to define biblical law without first considering the Bible's primary revelation of God's law: the structure of the various covenants God has made with men.

Thus, I define "pro-nomianism" in terms of God's covenant:

> The belief that God, the sovereign, predestinating Creator, has delegated to mankind the responsibility of obeying His Bible-revealed law-order, Old and New Testaments, and promises to bless or curse men in history, both individually and corporately, in terms of this law-order. This law-order and its historically applied sanctions are the basis of the progressive sanctification of covenant-keeping individuals and covenantal institutions—family, church, and state—over time, and they are also the basis of the progressive disinheritance of covenant-breakers.

This leads us to the question of the biblical definition of antinomianism, the antithesis of this definition.

C. "Antinomianism" Defined

We have seen that the biblical definition of God's law is governed by the structure of God's covenant. Thus, the biblical definition of antinomianism must also be governed by the structure of God's covenant. If being an antinomian means that you are against the law, then it must also mean that it is God's law that you are against, and God's law is always covenantal.

To understand what antinomianism is, we can do no better than to consider the first revelation in the Bible of the original antinomian:

Satan. Satan came to Eve with a proposition: "Eat of the forbidden fruit, and you will become as God" (Gen. 3:5). "Run an experiment, and see if this isn't the case," he tempted Eve. "See whose word is authoritative, mine or God's." He offered her a covenantal argument, a perverse imitation of the biblical covenant:

1. God is not sovereign.
2. You need not obey Him.
3. His law is not authoritative.
4. The promised negative sanction will not come.
5. [implied:] You will keep the inheritance.

I choose to analyze the biblical definition of antinomianism in terms of Satan's temptation of Eve. This line of satanic reasoning is the heart of all antinomianism.

1. Transcendence/Immanence

Who is God? Satan was asking Eve to decide. Who lays down the law? Whose word is authoritative?

Obviously, the Creator is God. Then who is the true creator, man or God? This is what Satan was asking mankind, God's chronological and judicial representatives. If man answered anything but "God is the Creator, and His word alone is authoritative," then Satan would inherit the earth. Man would die unless, of course, God should later send His Son, the second Adam, to inherit it, but Satan chose either to ignore this possibility or to act against what he knew would happen in the future.

The first step in becoming an antinomian is to deny the absolute sovereignty of God. It usually begins with a denial, implicit or explicit, that God created the world. This usually begins with a softening of the doctrine of the six, literal, 24-hour-day creation. This is how the seeds of Darwinism were sown: denying the literal character of God's chronology in Genesis 1.[22]

The next step is to deny the obvious implication of the doctrine of Creation: that since God created the world, He also controls the world. In other words, men deny the absolute sovereignty of God or providence of God. They deny the doctrine of predestination.[23]

22. North, *Sovereignty and Dominion*, Appendix C: "Cosmologies in Conflict: Creation vs. Evolution."

23. Loraine Boettner, *The Reformed Doctrine of Predestination* (Philadelphia: Presbyterian & Reformed, [1932] 1965).

Why is a denial of predestination inherently antinomian? Because it means that events in history come to pass outside of God's decree. They are therefore random events in terms of His decree, what philosophers call contingent events. An element of contingency is thereby brought into the universe. If A takes place, B may not take place. It may or may not. It depends. On what? On something other than what God has decreed.

This means that there must be gaps in historical causation. These gaps are inherently contingent with respect to the decree of God. A providential cause is separated from its eternally decreed effect. God therefore does not bring all things to pass; man brings some things to pass. The more element of contingency there is in history, the greater man's autonomy from God's providential control of the universe. That modern science has steadily adopted chance events as the basis of modern quantum physics is not itself a random historical event.[24] This conclusion of quantum physics is the product of a humanistic worldview that denies any decree of God and His creation of the universe. That chaos has become the "hot new topic" of modern physical science is also not random.[25] The ethical rebellion of humanist man is increasing.

If God does not control everything that comes to pass, *then His word is not authoritative over everything that comes to pass*. This was the logic of Satan's temptation: to believe that a specific cause (eating the forbidden fruit) would not *inevitably* lead to a specific event (death). Somehow, Satan was arguing, there is contingency in this world. This is also the argument of all those who would use the concept of contingency to defend the idea of the free (semi-autonomous) will of man. This is why we are morally required to abandon any trace of the free will argument. Nevertheless, most Christians today hold to some version of the free will argument. *Hence, most Christians today are in principle antinomians*.

2. Hierarchy/Authority/Representation

Satan went to Eve first. He was implying that she, not her husband, was sovereign. God had spoken to her husband regarding the forbidden fruit. Presumably, he had told her, as God's representative. "Obey me, not your husband," Satan said. And by disobeying her

24. Gary North, *Is the World Running Down? Crisis in the Christian Worldview* (Tyler, Texas: Institute for Christian Economics, 1988), ch. 1.

25. James Gleik, *Chaos: The Making of a New Science* (New York: Viking, 1987).

husband, she disobeyed God. She ignored the hierarchy of authority over her. She ignored her representative before God: Adam. She acted autonomously.

Who must man obey, God or his own autonomous mind? This was Satan's implicit question. He asked Eve to disobey God, all in the name of a cosmic experiment. What would happen if she disobeyed? Good things, he promised.

"Trust me," Satan said. "Take my word for it." In other words, "I lay down the true law." Man thinks that he is disobeying God on his own account, in his own authority, but in fact, man must serve only one master. Ethically, he subordinates himself to Satan when he refuses to obey God. He comes under the hierarchical rule of another master. Man may think he is acting autonomously, but he in fact is simply shifting masters. God or Baal? This was Elijah's question (I Kings 18:21). God or mammon? This was Jesus' question (Matt. 6:24).

But neither God nor Satan normally appears to an individual. Each sends human representatives. Men represent God in positions of corporate responsibility. God has established three monopolistic institutions: church, State, and family. The head of each can serve God or Satan, and those under him are sanctified (set apart) institutionally.

Soldiers live or die in terms of decisions made by their superiors. Nations rise and fall in terms of the decisions of their national leaders. An individual's success or failure in history cannot be discussed without reference to the institutional hierarchies above and below him, and their success or failure. Thus, to deny that God's law applies to your covenantal superior is another way of saying that it really does not apply to *you*. "I was just following orders!" says the subordinate who has sinned. In other words, "I was under someone else's authority—someone other than God."

Uriah the Hittite was a righteous man. He died because he was so righteous. Unrighteous King David told unrighteous General Joab to be sure that Uriah died in battle, and Joab carried out the order (II Sam. 12). In short, *covenantal hierarchy* is important.

David later decided to number the people. This was against God's law. Joab warned him about this, but David insisted, so Joab carried out the order. God's prophet then came to David and announced one of three judgments: seven years of famine, three months of David's fleeing before his enemies, or a three-day pestilence. Take your pick, the prophet said. David was too proud to accept the mild but per-

sonally humiliating second sanction, so he gave God the choice. God sent the worst one, nationally speaking: a plague that killed 70,000 people (II Sam. 24). (Anyone who teaches that God does not send sickness to His people has a real problem in explaining this passage.) In short, *covenantal representation* is important.

There are theologians today who say that God's law applies only to individuals, that nations are not under God's law. They deny the very possibility of a national covenant in New Testament times. Such a covenant was only for ancient Israel. National leaders are not representatives of their subordinates before God, theologians insist, and national leaders are surely not God's representatives before their subordinates. God's law has nothing to do with politics, they insist. There is no hierarchy of appeal based on God's law. *There is no national covenant*: this is a basic philosophy of all modern secular political theory, and few Christian scholars disagree. And those few who are willing to affirm the legitimacy of a national covenant gag on the idea of a future international covenant. International covenants are unthinkable for them. Not so for Isaiah (19:18–25).[26]

3. Ethics/Law/Boundaries

"Forget about the law against eating this fruit," Satan told Eve. "Go ahead and eat."

"Do what thou wilt shall be the whole of the law," announced the self-proclaimed early twentieth-century magician, Aleister Crowley, who also called himself the Beast and 666.[27] The ethical positions are the same. The results are also the same.

"We're under grace, not law." This is the fundamentalist Christians' version of the same ethical position. So is, "No creed but Christ, no law but love!" They do not mean what Paul meant: that Christians are no longer under the threat of the negative eternal sanctions of the law. They mean rather that God's law no longer applies in any of the five aspects of the covenant, eternally or historically.

Christian social thinkers, especially neo-evangelicals in the Wheaton College-InterVarsity Press-*Christianity Today* orbit, prefer to muddy the ethical waters by using fancier language than the fundamentalists use. Examples:

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26. Gary North, *Healer of the Nations: Biblical Blueprints for International Relations* (Ft. Worth, Texas: Dominion Press, 1987).

27. Aleister Crowley, *Magick in Theory and Practice* (New York: Castle, n.d.), p. 193. A short biography of Crowley is Daniel P. Mannix, *The Beast* (New York: Ballentine, 1959).

> The fact that our Scriptures can be used to support or condemn any economic philosophy suggests that the Bible is not intended to layout an economic plan which will apply for all times and places. If we are to examine economic structures in the light of Christian teachings, we will have to do it in another way.[28]

> Since koinonia includes the participation of everyone involved, there is no blueprint for what this would look like on a global scale. . . . We are talking about a process, not final answers.[29]

> There is in Scripture no blueprint of the ideal state or the ideal economy. We cannot turn to chapters of the Bible and find in them a model to copy or a plan for building the ideal biblical state and national economy.[30]

"Blueprint" is the code word for biblical law for those who do not want to obey biblical law. Second, "God's principles" is the code phrase for fundamentalists who are nervous about appearing totally antinomian, but who are equally nervous about breaking openly with the teachings and language of dispensationalism, i.e., "we're under grace, not law." Finally, "God's moral law" is the code phrase for the evangelical and Reformed man who does not want to be branded an antinomian, but who also does not want to be bound by the case laws of the Old Testament. In all these cases, the speaker rejects the idea of the continuing authority of the case laws.

It all boils down to this: Satan's rhetorical question, "Hath God said?" (Gen. 3:1). The proper response is, "Yes, God hath said!" He is the sovereign Creator. He has laid down the law.

4. Oath/Judgment/Sanctions

There are two kinds of sanctions: blessings and cursings. God told Adam that in the very *day* he ate of the tree, he would surely die. ("Dying, you shall die": the familiar biblical pleonasm.)[31] This means a negative sanction in *history*. Satan told Eve that she would not surely die. Instead, she would know good and evil, as God does: a positive sanction. Which would it be? "To die or not to die, that is the question."

Satan was a liar, but not so great a liar as to deny the idea of predictable sanctions in history. He simply denied God's negative sanc-

28. William Diehl, "The Guided-Market System," in Robert G. Clouse (ed.), *Wealth and Poverty, op. cit.*, p. 87.
29. Art Gish, "Decentralist Economics," *ibid.*, p. 154.
30. John Gladwin, "Centralist Economics," *ibid.*, p. 183.
31. Appendix M.

tion and promised Eve a positive one. Would that modern Christian theologians were as honest as Satan! Instead, they deny the very existence of predictable covenantal sanctions in New Testament times. They write such things as: "And meanwhile it [the common grace order] must run its course within the uncertainties of the mutually conditioning principles of common grace and common curse, prosperity and adversity being experienced in a manner largely unpredictable because of the inscrutable sovereignty of the divine will that dispenses them in mysterious ways."[32] This muddled prose matches an equally muddled concept of ethics and history. In English, this statement means simply that *there is no ethical cause-and-effect* relationship in post-crucifixion history.

Biblical case laws are still morally and judicially binding today. This is the thesis of *Tools of Dominion*. Kline's theology explicitly denies this. Second, Kline's argument also means the denial of God's sanctions—blessing and cursing—in New Testament history. It is the denial of any long-term cause-and-effect relationship between covenantal faithfulness and external blessings—positive feedback between covenant-keeping and *visible* blessings. It is also the denial of any long-term cause-and-effect relationship between covenantal unfaithfulness and external cursings. Thus, when I refer to "antinomianism," I have in mind the hostile attitude regarding ethical cause and effect in society—social antinomianism[33]—but also a deeper and more fundamental hostility: a denial, implicit or explicit, of the reliability of the covenantal promises (sanctions) of God in history.

5. Succession/Continuity/Inheritance

If you die, you do not inherit. If you die without children, someone else inherits. Who would inherit in history if Eve listened to the serpent and did what he recommended?

(I need to add something at this point. I believe that it really was a serpent who tempted Eve. He acted as a conscious, covenantal agent of Satan. He communicated in words. He brought God's curse on his posterity. Satan did not use him as a sort of hand puppet.)

If Satan was successful, he would inherit in history. Adam and Eve would die, as he well knew. He was a liar. He knew who is sovereign, whose word is law, and who will bring negative sanctions in history:

32. Meredith G. Kline, "Comments on the Old-New Error," *Westminster Theological Journal*, XLI (Fall 1978), p. 184.

33. Appendix O.

God. Satan knew that he might inherit as a subordinate steward if Adam and Eve disobeyed God, or at the very least, this would keep Adam and his heirs from inheriting. He would thwart God's plan. This prospect was enough to please Satan.

But Satan's hopes were shattered by the second Adam, Jesus Christ, who bore the law's negative sanctions so that God's adopted children (John 1:12) might inherit the earth and gain eternal life as well. Rather than seeing Satan inherit the earth through his earthly representatives, God has created an inheritance system *governing history*: positive feedback for covenant-keepers and negative feedback for covenant-breakers. Notice that the question of the inheritance was clearly historical: Satan never had any possibility of inheriting heaven.

Antinomians deny the existence of this inheritance system in history. This antinomian viewpoint regarding the systematic long-term outworking of God's visible covenantal judgments in the Christian era leads directly to what F. N. Lee has termed *pessimillennialism*, referring to both premillennialism and amillennialism. Covenant-keeping people will not progressively inherit the earth before Christ comes again physically, we are told. In contrast, Christian Reconstructionists affirm God's visible sanctions in history. If there is predictable long-term positive feedback (external blessings) in history for covenant-keeping, which Deuteronomy 28:1–14 insists that there is, and if there is long-term negative feedback (external cursings) in history for covenant-breaking, which Deuteronomy 28:15–68 insists that there is, then those who obey God must *inevitably* extend their external dominion over time, while those who disobey God must *inevitably* have external dominion removed from them.

God's sanctions in history still exist. This was John Calvin's view,[34] but modern Calvinists have abandoned it. God's covenantal law-order *inevitably* leads to the *external cultural triumph* of God's covenantally faithful people. This, of course, is postmillennialism.[35] This combination of covenant sanctions in history and postmillennial eschatology

34. John Calvin, *The Covenant Enforced: Sermons,on Deuteronomy 27 and 28*, ed. James B. Jordan (Tyler, Texas: Institute for Christian Economics, 1989).

35. While Calvin did not see this as clearly as modern Reconstructionists do, there were still elements of postmillennialism in his theology. On this point, see Greg L. Bahnsen, "The *Prima Facie* Acceptance of Postmillennialism," *Journal of Christian Reconstruction*, III (Winter 1976–77), pp. 69–76. I argue that there were both amillennial and postmillennial arguments in Calvin's writings: "The Economic Thought of Luther and Calvin," *ibid.*, II (Summer 1975), pp. 102–6.

is what distinguishes the Christian Reconstructionist worldview from all others today.[36]

Those who deny postmillennialism usually also deny the New Testament reality of God's law-governed historical sanctions. To this extent, premillennialists and amillennialists have generaIIy been social antinomians. They have erred in the development of their view of God's law and its sanctions in history. They have allowed their eschatologies of historical defeat to shape their doctrine of law, i.e., making it impotent in its historical effects. This triumph of pessimis ic eschatological views over biblical ethics is one of the most devastating theological problems that the modern church faces.

Thus, antinomianism is defined as that view of life which rejects one or more of the five points of the biblical covenant as they apply to God's revealed law in history. They deny that God, the sovereign, predestinating Creator, has delegated to mankind the responsibility of obeying His Bible-revealed law-order, Old and New Testaments, and promises to bless or curse men in history, both individually and corporately, in terms of this law-order. This law-order and its historically applied sanctions are the basis of the progressive sanctification of covenant-keeping individuals and also covenantal institutions—family, church, and State—over time, and they are also the basis of the progressive disinheritance of covenant-breakers.

D. Definitions and Paradigms

Some readers may not accept my definition of *antinomian*, but every reader should at least understand how and why I am using the term. The biblical definition of God's law must include all five of the points of the biblical covenant. Deny anyone of these five doctrines, and you have thereby adopted an antinomian theology. Deny them, and you necessarily must also deny the continuing authority of Deuteronomy 28 in the New Testament era. Yet an implicit and even explicit denial of these doctrines (and the relevance of Deuteronomy 28) has been a basic tactic of the vast majority of Christian theologians for over a millennium.[37] Thus, they have attempted to define away the case laws and historical sanctions. What I am saying is that it is theologically invalid to attempt to define away the continuing authority of Deu-

36. Postmillennial Puritans generally shared this view, which is why Reconstructionists regard themselves as neo-Puritans.

37. The major exceptions were the Puritans: *Journal of Christian Reconstruction*, V (Winter 1978–79): "Symposium on Puritanism and Law."

teronomy 28. I therefore see the inescapable theological necessity of restoring the biblical definition of biblical law and therefore anti- law.

I fully realize that my definition of *antinomian* is not the accepted usage. This common usage exists primarily because theological antinomians who have rejected one or more of the covenant's five points have previously defined the word so that it conforms to their pessimistic historical outlook: the long-term cultural impotence of God's redeemed people in history. They argue that antinomianism is merely the denial of one's *personal* responsibility to obey God's moral law (undefined).[38] This deliberately restricted definition implicitly surrenders history to the devil. What I am saying is this: anyone who denies that there are cause-and-effect relationships *in history* between the application of biblical case laws and the success or failure of social institutions has also inevitably and *in principle* adopted the idea that the devil controls and will continue to control this world. Why? Because the devil's *representatives* are said to be able to maintain control over the social institutions of this world throughout history (point two of the covenant: representation). It does no good for a person to answer that he is not an antinomian just because he respects God's law in his personal life, family life, and church life. He is still saying that God's law is historically impotent in social affairs, that covenant-keeping or covenant-breaking offers rewards and curses only to individuals and only after the final judgment.

Yes, I am offering a more comprehensive definition of "antinomian." My major goal in life is to lay additional foundations for a major theological paradigm shift that has already begun. I am self-conscious about this task. Readers deserve to know this. One inescapable aspect of a new movement or new way of viewing the world is the creation of new terms (e. g., "theonomy"), and the redefining of old terms. Einstein, for example, redefined several of the terms used by Newton.[39] Clearly, this is what the Barthians did with the vocabulary of trinitarian orthodoxy, or as Van Til remarked, they did it "under

38. "It refers to the doctrine that the moral law is not binding upon Christians as a way of life." Alexander M. Renwick, "Antinomianism," in *Baker's Dictionary of Theology*, eds. Everett F. Harrison, Geoffrey W. Bromiley, and Carl F. H. Henry (Grand Rapids, Michigan: Baker, 1960), p. 48.

39. Thomas Kuhn, *The Structure of Scientific Revolutions*, 2nd ed. (Chicago: University of Chicago Press, 1970), pp. 101–2, 149. Kuhn wrote: "Since new paradigms are born of old ones, they ordinarily incorporate much of the vocabulary and apparatus, both conceptual and manipulative, that the traditional paradigm had previously employed. But they seldom employ these borrowed elements in quite the traditional way." *Ibid.*, p. 149.

cover of an orthodox-sounding theology."[40] (Rushdoony correctly identified Barth as an implicit polytheist.)[41] It is not wrong to redefine terms; it is wrong to define words or use them in any way other than the Bible defines and uses them.

Those who pioneer a new worldview must break the near-monopoly strangle hold over useful terms that existing intellectual guilds have gained for themselves. An objection to my definition of the word "antinomian" simply because it does not conform precisely to past usage is also to a large extent also an objection to the alternative worldview that I am proposing.[42] This implicit theological hostility is masked by an explicit appeal to supposedly neutral grammar. But Van Til has taught us well: *nothing is neutral*. "Every bit of supposedly impersonal and neutral investigation, even in the field of science, is the product of an attitude of spiritual hostility to the Christ through whom alone there is truth in any dimension."[43] This surely includes language. As I wrote in 1973, "Neutrality does not exist. Everything must be interpreted in terms of what God has revealed. The humanistic goal of neutral language (and therefore neutral law) was overturned at the Tower of Babel. Our *definitions* must be in terms of *biblical revelation*."[44]

I am doing my best to help establish effective theological terminology for future use by those who have adopted a theonomic worldview. Christian Reconstructionists need not be limited in our critical analysis by the inherited vocabulary of our theological opponents. Besides, the winners in history get to write the dictionaries as well as the textbooks. More to the point, dictionaries always reflect common usage after the paradigm shift. We are preparing for this shift well in advance.

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40. Van Til, *The New Modernism* (Philadelphia, Pennsylvania: Presbyterian & Reformed, 1947), p. 27. He later wrote: "It is at this point that the question of 'traditional phraseology' has its significance. The 'simple believer' is all too often given new wine in old bottles. It is our solemn duty to point out this fact to him. The matter is of basic importance and of the utmost urgency." Van Til, *Christianity and Barthianism* (Philadelphia, Pennsylvania: Presbyterian & Reformed, 1962), p. 2.

41. Rushdoony, *Institutes of Biblical Law*, p. 20.

42. By a new worldview, I mean a new packaging of theological doctrines that have always been accepted by representative segments of the orthodox church. But by adopting the five-point biblical covenant to present these doctrines, I have been forced to reject existing theological systems which unsystematically and unself-consciously reject this model by substituting other interpretations of one or more of the five points.

43. Van Til, *The Case for Calvinism* (Nutley, New Jersey: Craig Press, 1964), p. 145.

44. Gary North, "In Defense of Biblical Bribery," in Rushdoony, *Institutes of Biblical Law*, p. 843.

Antinomianism as I define it has been the ethical preference of much of the church almost from its beginning. A philosophical compromise with Greek categories of hypothetically neutral natural law began in the second century,[45] and it still continues.[46] In politics, this compromise is known in our day as pluralism. Just about every Christian accepts the ideal of pluralism, either implicitly or explicitly. By defining antinomianism in terms of opposition to the Old Testament case laws, Christian Reconstructionists (theonomists) have alienated Christians in all camps, for almost all Christian groups oppose the enforcement of Old Testament laws. No Christian likes to be called an antinomian. Christians generally retaliate against such an accusation with the counter-accusation, "Legalist!"

This book is designed to help answer the question: Who is an antinomian and who is a legalist, biblically defined?

Conclusion

I have offered a comprehensive view of what the pro-nomian position teaches that biblical law is. We see biblical law as an integrated, unbreakable whole, an explicitly *covenantal* system of biblically revealed law. Antinomianism is a denial of this integrated system, yet in many cases, it offers as an alternative a perverse mirror image of this system. Satan had to use the biblical covenant in order to refute it. He thereby honored the old political principle: "You can't beat something with nothing."

The older definitions of "antinomian" were devised by those who, if my version of God's law is correct, were themselves antinomians. They did not adhere to all five points of the biblical covenant. They mayor may not have denied all five points, but they refused to affirm all five points, and then derive their definition of law and antilaw in terms of all five points.

So, for the sake of clarity, let me repeat my compact definition of pro-nomianism:

> The belief that God, the sovereign, predestinating Creator, has delegated to mankind the responsibility of obeying His Bible-revealed law-order, Old and New Testaments, and promises to bless or curse men in history, both individually and corporately, in terms of this law-order. This law-order and

45. Cornelius Van Til, *Christianity in Conflict* (mimeographed; Philadelphia: Westminster Theological Seminary, 1962).

46. Rex Downie, "Natural Law and God's Law: An Antithesis," *Journal of Christian Reconstruction*, V (Summer 1978), pp. 79–87.

its historically applied sanctions are the basis of the progressive sanctification of covenant-keeping individuals and covenantal institutions—family, church, and State—over time, and they are also the basis of the progressive disinheritance of covenant-breakers.

Deny this, and you are an antinomian.

APPENDIX S

WHAT ARE THE CASE LAWS?

For it is written in the law of Moses, Thou shalt not muzzle the mouth of the ox that treadeth out the corn. Doth God take care for oxen? Or saith he it altogether for our sakes? For our sakes, no doubt, this is written: that he that ploweth should plow in hope; and that he that thresheth in hope should be partaker of his hope.

I CORINTHIANS 9:9–10

Let the elders that rule well be counted worthy of double honour, especially they who labour in the word and doctrine. For the scripture saith, Thou shalt not muzzle the ox that treadeth out the corn. And, The labourer is worthy of his reward.

I TIMOTHY 5:17–18

This book is designed to press the case for biblical ethics, for it deals with a much-neglected portion of Scripture, the case laws of Exodus. These are the specific applications of the "lively oracles" that God gave to Moses (Acts 7:38). The case laws of Exodus appear in the chapters following the Ten Commandments of Exodus 20, especially in chapters 21–23. They are generally ignored today by Christian commentators, as surely as they were ignored in Moses' day. James Jordan's *Law of the Covenant* (1984)[1] is one of the rare exceptions to this established tradition of neglecting the case laws by Bible-believing scholars as well as liberal higher critics.

Christians are supposed to take the Old Testament's case laws seriously. As Paul's use of them indicates, they set forth in an encapsulated form fundamental principles of justice. They provide guidelines for the specific decisions of day-to-day life, and from them we are supposed to become skilled in discovering and then developing

1. Tyler, Texas: Institute for Christian Economics.

their underlying moral and judicial principles. The early church understood this, although the church's compromises with the pagan concept of natural law disguised the importance of biblical case laws in the compiling of early medieval law codes. These case law principles have long served as a major component of the judicial foundation of Western civilization. As Western civilization steadily departs from the legal principles that the case laws set forth, we walk closer toward the precipice of God's judgment, oblivious to the mortal danger that faces us. Men have forgotten that God judges nations and cultures in history. Biblical law warns them of this reality (Deut. 28:15–68), but Christians generally, not to mention the pagans who dominate this civilization, pay no attention to biblical law, especially its sanctions.

A. Case Laws and the Resurrection

It is with the case laws of Exodus that the Christian Reconstructionists' hermeneutical rubber inescapably meets the historical road. It is here that the Old Testament first presents detailed social applications of the fundamental principles of the Mosaic law and, equally important, the Mosaic law's required civil sanctions. Theonomists argue that Christians cannot legitimately proclaim the continuing moral validity of the Ten Commandments without also proclaiming the continuing judicial validity of the Mosaic case laws. Furthermore, Christians cannot legitimately affirm the binding nature of the Mosaic case laws apart from these laws' specified sanctions, unless the New Testament has annulled these sanctions individually.[2]

What must be understood from the very beginning is the following theonomic principle of biblical interpretation: it was with the death, resurrection, and ascension of Jesus Christ to the right hand of God in heaven that the entire world was placed historically under the full requirements of biblical law. From the creation, God placed the work of the law in the hearts of all men (Rom. 2:14–15). God later made a covenant with Noah, and this covenant necessarily involved law as a tool of dominion (Gen. 9:1–17). He made a covenant with Israel, and He gave laws to Israel that all nations would recognize as being holy and just (Deut. 4:5–8). *But it was with the death, resurrection, and ascension of Jesus Christ that biblical law burst the Old Covenant wineskin of national Israel and flowed judicially across all nations*. It was

2. This has been the case with the death penalty for sabbath-breaking: chapter 24, Appendix E.

not the ministry of Moses that accomplished this; it was the ministry of Jesus Christ.

This being our position, any attempt to refute the theonomic position by arguing that the Old Testament case laws were intended by God to apply only to Old Testament Israel misses a key theological point: *God's revealed law was resurrected to newness of life with Jesus*. Old Testament law, mediated and restored through Jesus Christ and preached by His church, has in New Testament times become judicially obligatory nationally on a worldwide basis. All nations will be judged finally in terms of God's law, as Jesus warned: "And before him shall be gathered all nations: and he shall separate them one from another, as a shepherd divideth his sheep from the goats" (Matt. 25:32). This means that the biblical case laws are now judicially obligatory for the nations, for where there is no binding law, there can be no valid sanctions.

B. Biblical Law and Civilization

Though it may seem strange to introduce the problems dealt with in this chapter with an extended citation from an Orthodox Jewish scholar, I have decided to do so anyway. Rarely has any commentator better understood the importance of biblical law for the full flowering of society than I. Grunfeld, the translator of Samson Raphael Hirsch's remarkable study, *Horeb* (1837). Grunfeld wrote in 1962:

> Indeed, the leaders of Christian opinion in Europe, and their Jewish imitators, conscious or unconscious, have often 'hit the law of Moses with their fists'; but it seems that in doing so they have done more harm to European civilization than to the law of Moses.
>
> The separation of law and religion has proved to be one of the greatest disasters in the history of human civilization. It has done untold harm to law and religion alike. It has robbed law of its sacred character and thereby of its strongest moral incentive; it has deprived religion of its legal element and, with that, of its influence over the greatest social movements of our time. Law alone can be the regulator of organized human life. The rejection of law as a religious discipline means, therefore, of necessity, the flight of religion from the world and its realities, a denial of the value of life and a state of detachment and capitulation on the part of religion. Hence originates the deplorably small influence which organized religion has wielded in the daily affairs of life, especially in its social and economic spheres, where religious activity should be at least as predominant as in the sphere of faith and morals. This aloofness of organized religion from the problems and difficulties of social life has alienated the best and no-

> blest spirits among the social reformers and has paralysed the influence which organized religion could and should have had in the social and political advancement of the world.[3]

A study of the case laws of Exodus gives us legitimate grounds of belief in the intensely practical nature of biblical law in social and economic life. The asserted dualism between biblical law and society cannot be maintained without denying the continuing validity of the case laws of Exodus. It should not surprise anyone that these three chapters of the Book of Exodus have been ignored by biblical commentators for two centuries, because this era has been the age of philosophical dualism: the estrangement of religion from the "real world" of scientific cause and effect. The triumph of biblical "higher criticism,"[4] the triumph of the dualistic humanist philosophy of Immanuel Kant,[5] and the triumph of inward-looking, world-rejecting pietistic Christianity have been closely related events.

C. The Case Laws and Slavery

The case laws of Exodus begin with rules governing slavery (actually, temporary indentured servitude). This is appropriate, for two reasons. First, as I have written in my general introduction to this series,[6] the Pentateuch is structured in terms of the five-point biblical covenant: transcendence, hierarchy, ethics, judgment, and inheritance.[7] Exodus, the second book, is concerned with the question of hierarchy. It asks this crucial question: *Which God should man serve?* The Book of Exodus presents God as the God of history who delivers His people

3. I. Grunfeld, "Religion, Law and Life: An Historical Vindication of the Horeb," in Samson Raphael Hirsch, *Horeb: A Philosophy of Jewish Laws and Observances* (New York: Soncino Press, 1962), pp. cxxxii–cxxxiii.

4. See Appendix P: "The Hoax of Higher Criticism."

5. Richard Kroner, Kant's *Weltanschauung*, trans. John E. Smith (Chicago: University of Chicago Press, [1914] 1956). Kroner was correct when he wrote that "No one before Kant had ever exalted man so much; no one had ever accorded him such a degree of metaphysical independence and self-dependence. Within himself man creates and preserves the supersensible as that excellence which distinguishes him from all other beings. The supersensible is precisely that trait which makes man what he is or rather what he ought to be. The idea of mankind and the idea of God are indeed so near to each other here that they almost coincide. Even God is dependent upon the moral law instead of the law being dependent upon him" (pp. 36–37).

6. Gary North, *Sovereignty and Dominion: An Economic Commentary on Genesis* (Dallas, Georgia: Point Five Press, [1987] 2012), General Introduction, Section H.

7. Ray R. Sutton, *That You May Prosper: Dominion By Covenant* (Tyler, Texas: Institute for Christian Economics, 1987). This five-point structure can be remembered by the mnemonic device, THEOS: transcendence, hierarchy, ethics, oath, and succession.

from oppression. In this sense, Meredith G. Kline's identification of the second point of the covenant is appropriate: historical prologue.[8] The breakdown of an older order inaugurates a new order. The breakdown of Egyptian political and military sovereignty led to the rise of Israel. But once God has identified Himself historically, along the lines of an ancient suzerain's covenant treaty, men's response becomes the central issue. They must then ask themselves this question: *Under whose hierarchical institutions should we operate?* This is the vassal's appropriate response after he hears of what the suzerain has done for him in the past. Ray Sutton's identification of the second point of the covenant as hierarchy correlates closely to man's response to God's historical prologue.[9]

The second reason why the case laws begin with laws governing bondservice is that the Israelites had just been delivered out of permanent slavery. They were ready to hear about laws governing servitude. We should recognize the obvious: civil laws making slavery as oppressive as the system that had governed them in Egypt would not have been laws imposed by the God of liberation on a nation that had suffered years of unjust oppression. Thus, we should recognize that these laws were a loosening of the bonds of servitude, not a tightening. Furthermore, as I argue later on, any attempt by antinomians, either Christian or anti-Christian, to ridicule the case laws of Exodus that govern bondservice is in effect a call for a return to Egyptian bondage, namely, bondage to the autonomous State. *Bondage is an inescapable concept*. It is never a question of "bondage vs. no bondage." It is a question of "bondage to whom."

1. Hierarchy

Let us begin with the first reason why the case laws begin with the laws of servitude: the biblical covenant. The Book of Exodus occupies the second position in the Pentateuch, and is therefore best understood in terms of hierarchy, meaning the structure of covenantal authority. Exodus opens with the account of the subjection of the Israelites to a king who did not acknowledge the covenant that his royal predecessor had made with Joseph and his brothers (Ex. 1:8). He placed the Hebrews in permanent slavery. He attempted to re-

8. Meredith G. Kline, *The Treaty of the Great King: The Covenant Structure of Deuteronomy* (Grand Rapids, Michigan: Eerdmans, 1963), pp. 52–61; cf. Kline, *The Structure of Biblical Authority,* rev. ed. (Grand Rapids, Michigan: Eerdmans, 1972), pp. 53–57.

9. Sutton, *That You May Prosper*, ch. 2.

place the God of the Bible as the sovereign lord of the Hebrews. As a self-proclaimed divinity, Pharaoh asserted the right to rule over them without answering to the God of Abraham. Thus, the early chapters of Exodus are devoted to the story of God's subordination of Egypt to Himself through the judgment of cursing—plagues, death, and military defeat—and the subordination of Israel to Himself through the judgment of blessing: their deliverance from bondage.[10] The old order was marked by the Hebrews' enslavement by Pharaoh; the new order was to be marked by their service to God.

Exodus is the Bible's premier "book of the covenant" (Ex. 24:7). The Book of Exodus is itself structured in terms of the five-point covenant. First, transcendence: Who is the *sovereign God* over nature and history, God or Pharaoh? Answer: the Creator God who delivered His people from Egypt (chapters 1–17). Second, hierarchy: What is the proper mode of *judicial organization* that reflects God's hierarchical chain of command over His people? Answer: a bottom-up appeals court structure (Ex. 18). Third, what are the *laws* by which God governs mankind and God's authorized representatives govern the covenantal institutions of family and civil government? Answer: the Ten Commandments (Ex. 20) and the case laws (Ex. 21–23:13). Fourth, how is the *covenantal oath* between God and His people manifested? Through a covenant meal (Ex. 23:14–19). What is the judgment that God brings on those who rebel against Him? National destruction: deliverance into the hands of the enemy (Ex. 23:20–3). Exodus 24 records the covenantal oath that Israel made with God. "And Moses came and told the people all the words of the LORD, and all the judgments: and all the people answered with one voice, and said, All the words which the LORD hath said will we do" (v. 3). Fifth, what is the *sign of inheritance* or continuity? Answer: the tabernacle that will go with them through the wilderness, and then into the promised land. Its blueprint appears in Exodus 25–31; its actual construction is described in Exodus 35–40.

Exodus 32–33 deals with Israel's rebellion with the golden calf and God's judgment of them, a recapitulation of Adam's Fall. In Exodus 34, God re-establishes Israel's covenant with Him, with Moses acting as the representative or intermediary in this hierarchy. Exodus 34 is therefore a section on *covenant renewal*, an aspect of historical continuity.

The second reason why slavery becomes the initial focus of con-

10. Part 1, *Representation and Dominion* (1985).

cern in the case laws is that the Israelites had just been delivered out of bondage. The whole book deals with the theme of deliverance from bondage into sabbath rest.[11] Thus, having just been delivered from slavery, God caught their attention by beginning the case law section with laws governing servitude. He confronted people "right where they are" in life. Where the Israelites were was in the wilderness, *in transition spiritually and culturally* from Pharaoh's slavery to God's servitude. Biblical servitude is one of God's authorized modes of transition from wrath to grace (blessing), both personally and culturally. Pagan slavery, in contrast, is one of God's ethically unauthorized but historically imposed modes of transition from grace to wrath (cursing) for His people: bondage in Egypt, Assyria, and Babylon. Becoming a slave-master over God's people is prohibited, yet God raises up such tyrants as a form of judgment against His people and the tyrants themselves (Jer. 25). What the New Testament says of Judas applies to slave-masters generally: "And truly the Son of man goeth, as it was determined: but woe unto that man by whom he is betrayed!" (Luke 22:22).

2. Liberals Protest

Because the case law section begins with bondservice, liberal scholars are immediately repulsed by it. In general, they react negatively to biblical law as a whole. It is not that they ignore the law. Liberal theologians have produced a large number of detailed studies of Old Testament law. What is notable about these academic studies is their almost self-conscious uselessness. Specialized scholarly journals in the field of Old Testament studies have been created by the dozens to serve as outlets for essays so narrow in focus, so irrelevant in conclusions, and so boring in style that not even publishers of scholarly books are willing to print them. The extent of the uselessness of these highly rarified, heavily footnoted studies cannot readily be appreciated by the average Christian, who reads his Bible, and then does his best to take its teachings seriously. Even in the world of formal academic scholarship, which specializes in the production of painstakingly documented irrelevance, Old Testament scholars are regarded by their colleagues as highly specialized, multi-lingual masters of useless historical details and even more useless literary speculation. (If Old Testament higher criticism were pornographic, it could not be published in the United States, for in order to publish pornography

11. Jordan, *Law of the Covenant*, p. 75.

legally, the publishers of such material must be capable of demonstrating in court that it has at least some socially redeeming value.)

Modern Bible scholarship has been governed by one overriding concern: to make the Old Testament seem archaic, irrelevant to the modern world, and in no way connected to man's final judgment by the God whose word the Old Testament is. Indeed, the bulk of all modern scholarship in every academic discipline has this as the primary goal: *to deny the biblical doctrine of final judgment*. This was the theological reason why Darwinism flourished so rapidly after its introduction in 1859,[12] and it is why it still flourishes today. People know that their deeds are evil, so they adopt an eschatology that conforms to their preferred eternal state, an eschatology without final judgment by a personal Creator God. Secular humanists therefore insist that mankind must be viewed as a randomly evolved being who is headed nowhere in particular, but especially not toward God's final judgment. Covenant-breakers seek substitutes for God's final judgment: either the heat death of the universe or the endless oscillating cycles of creative explosion, expansion, contraction, and cosmic crushing.[13] Either is deemed preferable to the eternal lake of fire, which is undoubtedly the place of residence for covenant-breakers.

A much better alternative is a return to covenant-keeping. This involves knowing what the ethical terms of the covenant are.

D. The Book of the Covenant

It has been my self-appointed task to study the "Book of the Covenant," Exodus 21–23, with the operating presupposition that these few pages of legal texts are consistent, coherent, sensible, and authoritative; and that they are judicially applicable as case laws to every culture in every era of history. These case laws deserve careful attention, not in order to discover why they are supposedly inappli-

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12. Wrote liberal cleric Rev. James Maurice Wilson in 1925: "The evolution of man from lower forms of life was in itself a new and startling fact, and one that broke up the old theology. I and my contemporaries, however, accepted it as fact. The first and obvious result of this acceptance was that we were compelled to regard the Biblical story of the Fall as not historic, as it had long been believed to be. We were compelled to regard that story as a primitive attempt to account for the presence of sin and evil in the world. . . . But now, in the light of the fact of evolution, the Fall, as a historic event, already questioned on other grounds, was excluded and denied by science." Wilson, "The Religious Effect of the Idea of Evolution," in *Evolution in the Light of Modern Knowledge: A Collective Work* (London: Blackie & Son, 1925), pp. 497, 498.

13. Gary North, *Is the World Running Down? Crisis in the Christian Worldview* (Tyler, Texas: Institute for Christian Economics, 1988), ch. 2.

cable today, but rather to discover how they *are* applicable today. These laws represent a significant portion of mankind's God-given and God-required tools of dominion. They are essential to a unique law-order that alone enables God's people to subdue the whole earth to His glory.

The case laws of Exodus constitute the second-longest passage in the Bible that deals with the specific laws of the civil government, the longest being Deuteronomy 13–27. (A considerable portion of Leviticus 18–21 is concerned with permanent judicial regulations, and not just the temporary laws of cleanliness.) Yet Exodus 21–23 is a brief section of the Bible. As the reader can see from the thickness of this book, a great deal of economic material can be gleaned from these three chapters; nevertheless, they fill only a few pages of the Bible. The implications of these case laws are wide-ranging; they constitute a major substantive foundation of Western law.[14] Thus, we must view them as part of an all-encompassing system of law.

James Jordan made an incisive observation concerning the use of biblical law in Protestant theology: "Protestant theology has traditionally held to three uses of the Law of God. The use of the Law in justification is that it provides a legal indictment against fallen man, and drives him to Christ. The use of the Law in sanctification is that it provides a moral standard for the life of renewed man. The use of the Law in dominion is that it delineates the rule which is to be implemented by the adopted sons of God over His creation. In the past, theology has tended to neglect the dominical use of God's Law. . . ."[15] Such neglect has been debilitating for the church and also for civilization. It is the dominical aspect of biblical law that this commentary series, and specifically this volume, is intended to examine.

1. The Case Laws

What are case laws? How are we to understand them? Are Christians to work politically to get them enacted into civil law today? Even those scholars who believe in the Bible as the infallible word of God disagree over the answers to these questions. Greg L. Bahnsen devotes only two sentences to the case laws in a study of biblical law that is over 600 pages long: "The ten commandments cannot be un-

14. In terms of a formal foundation of Western law—case laws taken verbatim from the Old Testament—this statement would be more difficult to prove. An academic series of historical studies on these explicit references would be of great importance.

15. James B. Jordan, Slavery in Biblical Perspective, unpublished master's thesis, Westminster Theological Seminary, Philadelphia (April 1980), p. 4.

derstood and properly applied without the explanation given them throughout the case laws of the Older Testament. The case law illustrates the application or qualification of the principle laid down in the general commandment."[16] This is not what you would call a detailed study of the case laws. Rushdoony's three-volume *Institutes of Biblical Law* does not even have an entry in the index to "case laws" or "law, case," yet the combined work is 1,800 pages. This does not mean that *Institutes* totally ignores the case laws, although a more detailed discussion would have been helpful. It means that the people who compiled the two indexes either did not notice the topic or else did not perceive its importance. The volumes' incomplete indexes makes it difficult for the reader to trace down this important aspect of biblical law.

Rushdoony breaks biblical law into three aspects: general law, case law, and prophetic commentary on the law. "*First*, certain broad premises or principles are declared. These are declarations of basic law. The Ten Commandments give us such declarations. The Ten Commandments are not therefore laws among laws, but are the basic laws, of which the various laws are specific examples."[17] Then there is "a *second* characteristic of Biblical law, namely, that the major portion of the law is *case law*, i.e., the illustration of the basic principle in terms of specific cases. These specific cases are often illustrations of the extent of the application of the law; that is, by citing a minimal type of case, the necessary jurisdictions of the law are revealed."[18]

The case laws are necessary in order to focus our concern on specific violations. The specific nature of the case laws is what keeps the Ten Commandments relevant in history. "Without case law, God's law would soon be reduced to an extremely limited area of meaning. This, of course, is precisely what has happened. Those who deny the present validity of the law apart from the Ten Commandments have as a consequence a very limited definition of theft. Their definition usually follows the civil law of their country, is humanistic, and is not radically different from the definitions given by Moslems, Buddhists, and humanists."[19]

16. Greg L. Bahnsen, *Theonomy in Christian Ethics*, 2nd ed. (Phillipsburg, New jersey: Presbyterian & Reformed, 1984), p. 313. His other brief references to the case laws only assert that they are still in force.

17. R. J. Rushdoony, *The Institutes of Biblical Law* (Nutley, New Jersey: Craig Press, 1973), p. 10.

18. *Ibid.*, p. 11.

19. *Ibid.*, p. 12.

James Jordan speaks of four manifestations of biblical law. First, there is "the Greatest Commandment," as he calls it: "And thou shalt love the Lord thy God with all thine heart, and with all thy soul, and with all thy might" (Deut. 6:5; cf. Matt. 22:37). On this point, Rushdoony is in agreement, and he begins Chapter 1 of the *Institutes* with a discussion of Deuteronomy 6:5.[20] The command is: *love God*. Jordan says that this covenant has two sides: structural (submit to the law) and personal (willing acceptance). "This Greatest Commandment comprehends (includes) every other commandment."[21]

Second, there is the commandment to love our fellow man as we love ourselves (Lev. 19:18; Matt. 22:39). This commandment divides the Greatest Commandment into two parts: duty to God and duty to men. "We should notice that these two Great Commandments are not found in any special place in the Bible, but are placed among the 'small' particular laws of Leviticus and Deuteronomy."[22]

Third, there are the Ten Commandments, the Decalogue. "The Ten Commandments break the Greatest Commandment into ten parts. Each of the Ten Commandments relates to God, and each relates to our fellow men, but some relate more specifically to God and others relate more specifically to man."[23]

"*Fourth*, there are the case laws. The case laws of the Old and New Testaments break the Greatest Commandment into many parts. As we have seen, any given case law may be related to more than one of the Ten Commandments, and so it would be an error to try to pigeon-hole the case laws under one Commandment each. In reality the case law as a whole comes under the Ten Commandments as a whole. Some laws fit rather nicely under one or another of the Commandments, but most case laws seem to combine principles from several of the basic Ten."[24] This is a very important point. It would be a mistake for us to seek to categorize each case law as being an application of one and only one of the Ten Commandments. The theologically innovative insight by Rushdoony that each of the case laws can be subsumed under a particular commandment in the Decalogue must not blind us to the fact that a case law may also be able to be subsumed under several of them.

20. *Ibid*., p. 16.
21. Jordan, *Law of the Covenant*, p. 21.
22. *Ibid*., p. 22.
23. *Idem*.
24. *Ibid*., pp. 22–23.

E. Casuistry: The One and The Many

The case laws allow us to understand the scope of other fundamental laws in the Bible. They enable us to see how these fundamental principles are to be interpreted and applied in concrete cases. The case laws enable us to combine the *one* of general law with the *many* of historic circumstances. Every system of law possesses both features—general and specific, one and many[25]—but the Bible gives us reliable revelation concerning the proper balancing.

The case laws are specific applications of more general biblical legal principles. We are to use case laws as the Apostle Paul used the case law that prohibits the muzzling of an ox while it treads the grain in the field (Deut. 25:4). Paul derived two ecclesiastical applications from this case law: (1) that the Christian minister is worthy of his hire (I Cor. 9:9–14); and (2) that he is worthy of a double honor (I Tim. 5:17–18). These are both examples of the general principle to avoid stealing.[26] The case law, the general law, and the New Testament application of the law are all equally valid today, no less so than in the days of Moses. If this case law were no longer judicially binding today, then why would Paul cite it? If it is judicially binding, then on what basis can all other case laws be dismissed as inapplicable in New Testament times?

Any principle of biblical interpretation (hermeneutic) is dangerous which argues that unless an Old Testament case law is specifically repeated in the New Testament, it is automatically annulled in New Testament times. Anyone who argues this way is going to run into major problems. For example, bestiality is not specifically mentioned in the New Testament. In the Old Testament, it is listed as a capital crime (Lev. 18:23). How are we to regard bestiality in the New Testament? As a "victimless crime"? As an example of cruelty to animals?

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25. Wrote legal scholar Max Rheinstein: "Even less irrational is judicial case law in the sense of judge-made law, as occurring particularly, but by no means solely, in the Common Law. Consistency, which indeed is the essence of rationality, is required by the very principle of *stare decisis* [legal precedent—G. N.]. As no case is ever completely identical with any other, we can never follow precedent in any way other than by trying to follow its *ratio decidendi*, i.e., the principle, broad or narrow, upon which we find, or believe, it to be based." Rheinstein, Introduction, Max Weber, *On Law in Economy and Society*, edited by Rheinstein (New York: Clarion, 1967), p. xlviii. He then added this *obiter dictum*: "With much justification the judicial process of the Common Law has been characterized as reasoning by example in the Aristotelian sense." The judicial process in the pre-modern Common Law should rather be described as reasoning by example in the Mosaic sense.

26. Rushdoony, *Institutes*, pp. 11–12.

As creative humanism's version of animal husbandry? Or as a capital crime? If the act is still a moral crime in the New Testament (derived from, say, the law regarding adultery—unless the interpreter has also abandoned John 8:1–11), is it also a matter for the civil courts? If it is, is the death penalty still in force? Can you carry over the Old Testament's definition of the act as criminal and yet not carryover the Old Testament's penal sanction? On what hermeneutical basis?[27]

1. Which General Law?

The problem for biblical casuistry is that the case laws do not always reveal to us which one (or more) of the fundamental ten laws is directly involved. This is Jordan's point.[28] There is no simplistic way to place every case law under one (and only one) of the Ten Commandments. The search for a specific and primary principle that undergirds any given case law can sometimes be frustrating. No such principle may initially call attention to itself. This is why human intuition, trained by long periods of Bible study and the discipline of *casuistry* (the application of general laws to specific cases), coupled with regeneration by the Holy Spirit, is necessary for a proper understanding of biblical law.

The art of Protestant biblical casuistry faded in the late seventeenth century, with the deaths of men like Jeremy Taylor, Richard Baxter, and especially after the death of Samuel Willard in 1707. After them, the secular vision of natural law once again overwhelmed Christian thinkers, as it had in the late Scholastic era, only this time, the vision became more and more self-consciously autonomous from the Bible and religion. It has only been since 1973, with the publication of Volume I of Rushdoony's *Institutes*,[29] that a handful of younger Protestant scholars began to publish preliminary exercises in the ancient discipline of casuistry, but without any reliance on the quicksand of natural law theory. My specifically economic commentary on the Bible, which I began in 1973 in the *Chalcedon Report*, is an obvious example. This self-conscious break with natural law theory was Cornelius Van Til's crucially important intellectual legacy to the Christian Reconstructionists.[30]

27. Gary North, *75 Bible Questions Your Instructors Pray You Won't Ask*, (Tyler, Texas: Institute for Christian Economics, 1984), Question 26.

28. Jordan, *Law of the Covenant*, pp. 22–23.

29. And also with the audio tapes that preceded the Institutes from about 1968.

30. For example, Cornelius Van Til, *A Christian Theory of Knowledge* (Nutley, New Jersey: Presbyterian & Reformed, 1969), ch. 8: "Natural Theology and Scripture."

2. By What Other Standard?

Are these case laws still in force? Bahnsen said yes: "Since the case law's principles *define* the Decalogue, the case law's principles (in their full scope: personal and social, ecclesiastical and civil) are as *perpetual* as the Decalogue itself."[31] Christian Reconstructionists agree: unless specifically abrogated through Christ's fulfillment of a specific case law in the New Testament (extremely rare), they are still morally and judicially binding.

There are many Christians who categorically deny this. They reject the judicially binding character of Old Testament laws. In response, Reconstructionists ask the question that served as the title of Rushdoony's first book: *By what standard?* What judicial standard is sovereign in New Testament times? More specifically, by what other standard than the word of God are men required by God to select and enforce civil laws? By some hypothetically universal natural law (which almost nobody believes in, including theoretical physicists, now that Darwinism is the reigning philosophy)?[32] By process philosophy, the shifting standard bequeathed by scientific Darwinism?[33] By existentialism's shifting standards?[34] By the shifting ethical standard of humanistic positive law (whatever the legislature this week says is law, *is* law)? *By what other standard?* Be specific. Prove your case. *And prove it in terms of the Bible, if you please*. Please cite chapter and verse.

Chapter and verse: no words anger the compromised Christian intellectual more than these. Chapter and verse: he is thrown back on the Bible as the ultimate judge of his speculations. Chapter and verse: this allows no autonomy for the mind of man. Chapter and verse: his humanistic colleagues will laugh at him. Worse than facing Almighty God on judgment day, the Christian antinomian intellectual fears ridicule 'by his humanistic peers. Chapter and verse: he *has* no chapters and verses. So he shouts his defiance of the laws of the Bible. He ridicules the laws of the Bible by ridiculing specific biblical law-based recommendations of the Christian Reconstruction movement. He sets himself up as the standard of interpretation. He clings to

31. Greg L. Bahnsen, *By This Standard: The Authority of God's Law Today* (Tyler, Texas: Institute for Christian Economics, 1985), p. 318.

32. North, *Is the World Running Down?,* ch. 1.

33. Delwin Brown, Ralph E. James, Jr., and Gene Reeves (eds.), *Process Philosophy and Christian Thought* (Indianapolis, Indiana: Bobbs-Merrill, 1971); Ewert H. Cousins (ed.), *Process Theology: Basic Writings* (New York: Newman Press, 1971).

34. William Barrett, *Irrational Man: A Study in Existential Philosophy* (Garden City, New York: Doubleday Anchor, [1958] 1962).

his classroom notes from the State University that granted him his advanced degree. "Here lies all truth, at least for the moment, and momentary truth is all we can hope to discover," he proclaims.

Not the Old Testament! Never, ever the Old Testament! After all, Christ has annulled the Old Testament. And even if He hasn't, State University has. This is the morally corrosive process that has been labeled so perceptively by Herbert Schlossberg, using a metaphor derived from the world of ruptured nuclear reactors: the evangelical meltdown.[35]

F. The Lack of Procedural Details

There is one problem that Christians need to recognize as a major problem to be solved in each society that attempts to rewrite civil legislation and jurisprudence in terms of the Old Testament case laws. This is the problem of legal procedure. The Bible is almost silent concerning civil and ecclesiastical judicial procedure.

J. J. Finkelstein made this observation in his fascinating monograph, *The Ox That Gored* (1981). (This is the single liberal source that proved really indispensable for this book—the fix that got me hooked again,[36] vainly hoping that some other liberal document would prove as useful. None ever did.) He spent many years of his life in a careful study of ancient Near Eastern legal texts. He found a crucial contrast between biblical texts and the compilations of law in rival Near Eastern societies: *the biblical texts reveal almost nothing about legal procedure*. "The contrast between the biblical and the Mesopotamian legal corpora is underscored even further by the almost total absence in the former of normative rules, that is, formulations of the proper procedures governing commerce and economic life in general. The legal sections of the Pentateuch betray what amounts to complete indifference to the formalities without which the most elementary social institutions could hardly be said to function. This silence applies not only to contracts and obligations, but also to the normative forms by which family life is ordered, such as marriage, family property rights, and inheritance. The Mesopotamian legal corpora dwell on these themes at great length; biblical law touches upon them only in the most cursory way, and then often within the framework of a narrative where it typically is a question of the unusual rather than

35. Herbert Schlossberg, Review of David Chilton's *Paradise Restored*, in *American Spectator* (March 1987), p. 42.

36. See below: Section H.

the normative procedure. This is clearly illustrated by the petition of the daughters of Zelophehad for inheritance rights in the absence of male heirs."[37]

He gace some good reasons for this contrast. 'One is that the climate of Palestine is inhospitable to the survival of parchment and papyrus. In contrast, Mesopotamian collections of tablets and sealed rolls have been found in profusion during archeological digs. "The bulk of the written remains from ancient Mesopotamia is accidental in the sense that all of it has been recovered by legitimate or illicit excavation."[38] It may be that attempts to impose coherence on the "incoherent assemblage of data of widely disparate dates" may be misleading. In the late 1970s, I heard a lecture by the editor of the *Biblical Archeology Review*, David N. Freedman, who informed us that only about 10% of the tablets for any culture or archeological site are ever translated. There is always another discovery to catch the fancy of the archaeologists, and they eventually grow bored with the translation of seemingly similar commercial records and tax records. Furthermore, there are not that many specialists in the ancient languages, and fewer still who are social or legal theorists. They go on to new tablets instead of spending a lifetime interpreting the tablets they have already translated.

Finkelstein did not emphasize these more technical aspects of the differences between biblical and Near Eastern texts. The really important difference in the rate of survival, he said, was theological. "The Israelite nation was bound by an ancient and sacred pact with its deity to organize and conduct its life, both personally and institutionally, in accordance with the divinely ordained prescriptions. Directly or indirectly, whatever is included in the Old Testament by way of 'historical' information is meant to reinforce that central thesis; the vicissitudes of the people through the millennium embraced by the biblical time span serve as hardly more than a barometer of the nation's fidelity to, or perfidy against, its pact with Yahweh. Everything is subordinated to this overriding purpose, and whatever did

37. J. J. Finkelstein, *The Ox That Gored* (Philadelphia: American Philosophical Society, 1981), p. 42. Boecker writes: "There are no OT 'rules of court.' We must remember above all that in its basic message the OT is not interested in conveying a picture of legal processes in Ancient Israel. Its concern lies elsewhere. Its purpose is to report God's activity in and with Israel and to demonstrate Israel's answer to this activity." Hans Jochen Boecker, *Law and the Administration of Justice in the Old Testament and Ancient East*, trans. Jeremy Moiser (Minneapolis, Minnesota: Augsburg, [1976] 1980), p. 28.

38. Finkelstein, *ibid.*, p. 44.

not contribute to this 'transcendent' end was not considered for inclusion, no matter how fundamental it was to the pursuit of daily life. As a consequence norms and regulations governing trade, property, the crafts, family law, and the like—the institutions that constitute the very fabric of daily life—were of little concern to the biblical authors and redactors."[39]

I would add a third aspect of this structure of biblical revelation: the intention of God to provide a covenant document for all of human history rather than a temporary law code for professional use by Hebrew lawyers. The whole of God's revealed law had to be read every seventh year to all the residents of Israel (Deut. 31:10–13). Law had to be understandable by them. God's law was (and is) to be enforced primarily by *self-government under God*, not by formal agencies of government, whether civil or ecclesiastical. The law was (and is) to be *lived*, not broken into minute technical parts and rolled up in scrolls on lawyers' shelves. The inescapable technical and professional disputes of lawyers were peripheral to the fundamental point: *the restoration of the broken covenant of Adam*. God's revealed law was given to serve as a guide for the restoration of God's mandated kingdom, meaning the earthly, historical manifestation of God's cosmic civilization—"in earth, as it is in heaven." This meant (and still means) the restoration of God's law-order.[40] It was this law-order, not the technical terms of professional disputation within an elite guild of lawyers, that was the focus of concern in the Old Testament's texts relating to biblical law.

G. Formal Law and Ethics

Biblical law gives us God's fixed ethical standards. It also gives us a warning: there will be a final judgment, eternal in its effects, awesome in its magnitude, and perfect in its casuistry. All the historical facts will be judged by all the law. Yet there is little said about how this final courtroom drama will be conducted. Any discussion of the technical details of God's formal legal procedure is irrelevant. We know only that there will be at least three witnesses against us, violation by violation: Father, Son, and Holy Ghost.[41]

The quest for perfect earthly justice is socially debilitating. It is a demonic quest. Whenever lawyers dominate a society—usually during

39. *Ibid*., p. 42.

40. Rushdoony, *Institutes*, p. 12.

41. Gary North, "Witnesses and Judges," *Biblical Economics Today*, VI (Aug./Sept. 1983). Reprinted as Appendix E in North, *Sovereignty and Dominion*.

the society's final years—they steadily substitute formal procedure for ethics. (This is also true of many other academic guilds.) They adopt a theology of salvation by law, or at least continued employment by law. The practice of law replaces the law itself; "law" becomes case laws, precedents, and procedures, but without any thought or hope concerning an integrated law-order that provides meaning to the law in general. Law becomes what men say it is, and men do not agree. Humanism's implicit *judicial polytheism* then leads to the disintegration of civil law: jammed courts, endless litigation, plea bargaining, and all the other aspects of twentieth-century judicial tyranny that we have become numbed into accepting as normative.[42]

The Bible is concerned with ethics, not formal courtroom procedure. The New Testament's few rules for church courts (Matt. 18:15–18) are representative of the entire Bible's view of legal procedure. Without reliable ethical standards, formal procedure is the judicial equivalent of wood, hay, and stubble. Paul chastised the church at Corinth for having allowed its members to seek justice in the Roman courts of his day. Better, he said, to seek justice from the least esteemed member of the local church (I Cor. 6:4).

It is the mark of a culture in the process of disintegration that it substitutes procedure for ethics, the letter of its law for the spirit of its law. Even more important than the letter of the law is the *bureaucratic administration* that defines the letter of the law. This is where the West is in the early decades of the twenty-first century. Techniques of judicial interpretation are considered more fundamental than the substance of the law. Such an attitude invariably transfers authority from the people to a self-certified elite, the interpreters. It creates a secular priesthood. This is the basis of modern education, where formal examinations and formal academic degrees have been substituted as standards of performance in place of performance on the job as evaluated by a master craftsman in a free market setting. Such bureaucratic formalism is the antithesis of the Reformation doctrine: every man a priest.

H. A Lifelong Affliction

This book suffers from a deliberately imposed defect: the footnoting of utterly irrelevant and/or utterly erroneous scholarly material. I attended seminary and graduate school, and I picked up some burden-

42. Macklin Fleming, *The Price of Perfect Justice* (New York: Basic Books, 1974); Carrol D. Kilgore, *Judicial Tyranny* (Nashville, Tennessee: Thomas Nelson, 1977).

some habits. One of the great weaknesses of modern Christianity is that prospective ministers are often required to attend seminary, and seminary students are often required by seminary professors to spend an inordinate amount of time reading the theological drivel produced by higher critics. In fact, this general rule governs seminary curricula: the better the seminary's academic reputation, the greater the quantity of assigned drivel. Higher criticism confuses students in conservative seminaries, forcing them to waste precious time that could otherwise be used in studying the Bible. It leads students into apostasy in liberal seminaries. Professors in conservative seminaries frequently structure their classes as if an important pastoral task is to keep up with the latest theories of liberal theologians, so they train their students to become familiar with the defunct theories of long-forgotten German theologians. In the spring semester of 1964, I put this sign on my door at Westminster Seminary: "Help stamp out dead German theologians: Attend classes regularly."[43]

Conservative Bible scholars spend their lives shadow boxing with liberals, despite the fact that the liberals pay little or no attention to them, and are barely aware of their existence. (An exception was Cornelius Van Til's published criticisms of Karl Barth. "That man hates me!" Barth was once overheard to say when Van Til's name was mentioned. But Barth never responded to Van Til in print, any more than Ron Sider responded in print to David Chilton.[44] Liberals prefer not to expose their intellectual wounds in public, especially when these wounds are mortal.) In any case, liberals revise their theses so often that by the time the conservative has painstakingly refuted what had been the latest liberal fad, the fad is regarded by the liberals as ancient history.[45]

43. The problem with the theological seminary is that it is an institution that is supported by donors primarily because they expect it to train ministers, when it is all too often a graduate school in theology staffed by men whose real interest is technical theology, and who have never themselves pastored churches. It is another example of procedure (formal academic certification) triumphing over substance (producing pastors).

44. Ron Sider, *Rich Christians in an Age of Hunger*, 2nd ed. (Downers Grove, Illinois: Inter-Varsity Press, 1984).

45. A good example of such a fad was the "death of God" movement, which lasted from 1966 until (maybe) 1969. The "hot" theologians who promoted this short-lived fad were Gabriel Vahanian and Thomas J. J. Altizer. This is an affliction I call Altizer's disease: two years after people get it, they forget all about you. See Altizer, *The Gospel of Christian Atheism* (Philadelphia: Westminster Press, 1966). Altizer was teaching at Emory University, a Methodist school in Atlanta, Georgia; Westminster Press is mainline Presbyterian. See also Altizer and Hamilton, *Radical Theology and the Death of God* (New

Nevertheless, this practice of citing liberal scholars, even if confined to footnotes only, is like a nasty habit picked up in one's youth; it is very difficult to overcome once you are afflicted. It usually becomes a lifelong addiction. You can spot the addict easily: as he reads the final manuscript version of his book, just before he sends it to the typesetter, he scans the footnotes, making sure that there are a sufficient number of German works cited, even if only in translation. If there are none, the author's hands begin to shake uncontrollably, like a heroin addict suffering withdrawal symptoms. He rushes back to make one more set of revisions, frantically scanning the latest theological journals in search of a handful of citations—any citations—just to make his book appear academically respectable. "One more fix; just one more fix! Then I'll quit forever!" But the pathetic addict knows he can't quit. Even when he is ashamed by his habit, he returns to the sins of his youth. He pretends that the drivel he reads in scholarly theological journals is significant. In time, he risks being remade in their image.

The works of modern theologians are overwhelmingly useless, yet occasionally one of them will randomly offer some vaguely useful insight, so the addicted scholar keeps plowing through their books, hoping for a footnote or two. *Tools of Dominion* displays occasional evidence of being the product of this bad habit picked up in my youth. But at least you will find no trace of ethical relativism in this book's thesis.

Conclusion

The case laws of Exodus provide us with fundamental legal principles that God has established in order to provide His people with a means of gaining His external, historical blessings. These case laws are mankind's God-given tools of dominion. Without them, and without faith in the God who gave them, rebellious mankind cannot long sustain the external blessings of God.[46]

The modern world, including the Christian world, does not believe this. People think that they can have freedom without Christ, and prosperity without adherence to the external requirements of

York: Bobbs-Merrill, 1966). Vahanian's book had been published half a decade earlier, but did not immediately catch on: *The Death of God: The Culture of Our Post-Christian Era* (New York: George Braziller, 1961).

46. Gary North, *Dominion and Common Grace: The Biblical Basis of Progress* (Tyler, Texas: Institute for Christian Economics, 1987), ch. 6.

biblical law. They really do believe in the autonomy of man. They really do believe that "my power and the might of my hand hath gotten me this wealth" (Deut. 8:17). The problem is, God has warned us that when we say this, judgment is near (Deut. 8:18–20).

We find Christians who argue vehemently that "Christians can live under *any* economic or political system!" True, so we reply: "Even the Old Testament legal system?" And we are told emphatically, "*No!* Christians can live under any economic and political system *except* the Old Testament legal system." Anything is acceptable, therefore, except what God requires. So they reply, as Satan replied to Eve, "Hath God said?" Yes, God *hath* said!

Cornelius Van Til once wrote that if a covenant-breaking man could tune in his radio to only one station that did not testify of God to him, he would listen only to that station. No such station exists, Van Til said.[47] The whole creation testifies to the Creator (Rom. 1:18–23). We can extend this insight to social theory: if antinomian Christians could live under any system of politics and economics that did not testify to them of what God *really* requires, they would choose to live only under that system. They have said so repeatedly. But they cannot escape the voice of God. They cannot escape the requirements of Old Testament law. In short, they cannot escape the Bible. They are inevitably under the covenant's blessings and cursings.

It is time for Christians to place themselves consistently and forthrightly under the ethical terms of the covenant, and affirm the continuing judicial validity for all societies of the case laws. They can begin with the case laws of Exodus.

47. A variation of this analogy appears in *Common Grace and the Gospel* (Nutley, New Jersey: Presbyterian & Reformed, [1954] 1974). pp. 53–54.

APPENDIX T

FUGATE ON THE SUPPOSED "HEAD TAX"

In 1990, the Institute for Christian Economics published my commentary on the case laws of Exodus, *Tools of Dominion*. Chapter 32 of the book, "Blood Money, Not Head Tax," was a presentation of my arguments that the money paid by every Hebrew male at the age of 20, which went to the tabernacle, was not a civil tax. I broke with R. J. Rushdoony on this point.

On November 25, 2012, I glanced through the November/December edition of the magazine published by the Chalcedon Foundation, *Faith for All of Life*. There I discovered an article, "A Critique of Jordan's and North's View of the Head Tax, Part 3 of 3." I had not heard of Parts 1 and 2. The author is Dr. Robert Fugate.

It took 22 years for someone to write a critique of that chapter. I do not think I can risk waiting 22 years to respond. So, I began writing this rebuttal within 24 hours, on November 27, 2012. I finished it a few hours later.

A. Implication: State Over Church

At the heart of my critique of Rushdoony's position is my rejection of the statement that he made early in *The Institutes of Biblical Law*. He wrote of the money payment in Exodus 30:12–16: "It was used to maintain the civil order after the tabernacle (the throne room and palace of God's government) was built."[1] I made the statement that he offered no evidence for this assertion. I wrote the following: "On the face of it, it seems utterly implausible. How did such a shift in the locus of taxing the sovereignty take place? How did the state be-

1. R. J. Rushdoony, *The Institutes of Biblical Law* (Nutley, New Jersey: Craig Press, 1973), p. 5.

come the recipient of an atonement payment, thereby converting a ransom paid to God through the priesthood into a head tax collected by the state? *This would implicitly transfer sovereignty from the church to the state*, a procedure totally at odds with everything else Rushdoony has written about illegitimate state power."[2] Rushdoony extended his remarks: "The poll tax was a reminder that they lived the by God's grace, and that their lives and substance were forfeited by treason against God. It was therefore a ceremony associated with the redemption of the firstborn, the Passover, and the day of atonement, rather than the tithe."[3]

This language is clearly ecclesiastical: "a ceremony associated in with the redemption of the firstborn, the Passover, and the day of atonement, rather than the tithe." I do not agree that this payment had to do with redemption, the Passover, and the day of atonement. I do agree that it had to do with the covenantal government that was the enforcer of redemption, the Passover, and the Day of Atonement. That government was the church. It was not the state. There is no possible way exegetically to separate these three factors from the institutional church in the days of Moses. There is no possible way exegetically to argue from the Mosaic Law that the state was in any way associated with these three ceremonies.

To argue that the civil government was the lawful recipient of money that was extracted from the people of God, based on the ecclesiastical authority lodged in the priesthood to bring money into the tabernacle, would place the state at the top of *a unitary pyramid of power*. Such power would therefore have had to have been civil rather than ecclesiastical. Why exclusively? Because the agency of government that has the right to take money from another agency of government is superior to that agency in terms of political power. Rushdoony's position on the head tax placed the state at the top of this pyramid of power. If you want to understand where authority lies in any institution, *follow the money*. Rushdoony followed the money: "The state thus controls the use of the head tax. . . ."[4] But he refused to draw the obvious implication: the state was in charge of the priests, who were acting as the state's agents in collecting a civil tax. He remained silent.

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2. Gary North, *Tools of Dominion: The Case Laws of Exodus* (Tyler, Texas: Institute for Christian Economics, 1990), p. 906. See above, ch. 58:B.

3. Rushdoony, *Institutes*, pp. 50–51.

4. *Ibid*., p.. 283.

I regard this as a very serious inconsistency with his theological position. He was usually careful to separate the institutional state from the institutional church except in cases where the state was dependent on the church, such as the requirement that the priests certify a war as holy before the state could fight (Num. 10:9–10). He referred to this passage in a section on the mandatory requirement that the civil government seek peace before hostilities broke out.[5] But his position on the supposed head tax confused the structure of biblical authority. I made my position clear on this in 1990.

> Why did Rushdoony make this unwarranted leap from an atoning tabernacle payment during wartime to a permanent payment to the tabernacle as a civil tax? Why didn't he see the enormous threat to liberty involved in making the state a tax-collector in the name of atonement? Why did he fail to recognize that if this was the only legitimate tax in Old Testament Israel, that it would have created either an ecclesiocracy or a political tyranny? If the atonement payment was in fact a tax, one collected by the tabernacle's agents, meaning Aaronic priests, to be doled out as they saw fit to the civil authorities, then the church would inevitably be at the top of a single civil pyramid. On the other hand, if the civil magistrates possessed the authority to enter the tabernacle and collect the atonement payment, then the state would be at the top. Yet Rushdoony always argued that there is no single church-state pyramid of power in a biblical commonwealth; church and state are separate sovereign authorities under God and God's law.[6]

Rushdoony had over a decade to respond to this argument. He died in 2001. He did not reply. It was his lifelong policy not to respond to published critiques of his position, a tactical mistake that I have not made with respect to serious attacks—and occasionally not-so-serious attacks—on my many positions. But at least he could have written a clarification of his position, but without referring to my chapter. He did not.

B. Fugate's Defense of Rushdoony's View

Twenty-two years later comes a defense of Rushdoony's identification of the atonement payment as a civil head tax. I regard it as highly significant that Dr. Fugate followed Rushdoony's policy of silence. He did not comment directly on the political implications of Rushdoony's position or my critique of these implications. I should have thought that he would have taken up the challenge in at least one of his three

5. *Ibid.*, p. 279.
6. North, *Tools of Dominion*, p. 908. See above, ch. 58:B:1.

heavily footnoted articles. To defend Rushdoony's interpretation of the supposed civil head tax without also forthrightly defending the inescapable political-theological implications of this position is disingenuous. Alternatively, he could have presented a detailed argument showing that what I designated as an inescapable contradiction in Rushdoony's theology does not in fact follow from his designation of the atonement money as a civil tax. One or the other approach deserved several paragraphs. I think it deserved separate article.

1. Rhetoric, Not Logic

Dr. Fugate needed to make his position clear on the crucial covenantal issue of *final institutional authority*. His position is vague. He criticized James Jordan, who holds a view of the atonement payment that is similar to mine. He wrote: "Fifth, Jordan's argument, 'the house of God is preeminently a house of prayer, not a political center,' is fallacious, being a false dilemma. Both choices are true. The house of God is to be a house of prayer (the same was true for the Old Testament house of God), and the Kingdom of God has a political dimension (in both Testaments)."[7] *Notice the strategic shift of argument*. He cited Jordan's statement that the house of God, which Jordan and most Protestants define as the institutional church, is not a political center. Fugate then denied that this is true. On what basis? "Because the Kingdom of God has a political dimension." He substituted the words "Kingdom of God" for "house of God." He did this a second time. "To deny the political aspects of the Kingdom of Jesus Christ (which began with His resurrection and enthronement) is to truncate the absolute lordship of Christ—the heart of the New Testament message. It severs one aspect of Christ's Kingdom from the realm of history. This error is often introduced by accepting some form of pietism (which is rooted in pagan Greek dualism)."[8] This makes Jordan sound like an incipient pietist. I conclude that this was deliberate on Dr. Fugate's part. *This was the substitution of rhetoric for logic*. This is a familiar trick of a debater who knows he is losing the argument, and who seeks to re-direct the judges' attention from the central issue.

What was the central issue? Jordan was arguing about a separate covenantal institution: the church. He was not speaking of the broad designation called the kingdom of God, which he, I, and most Chris-

7. Robert E. Fugate, "A Critique of Jordan's and North's View of the Head Tax (Part 2 of 3)," *Faith for All of Life* (September/October 2012), p. 17.

8. *Idem*.

tian Reconstructionists see as the civilization of God. The kingdom of God encompasses everything. Here is what Rushdoony wrote in *Thy Kingdom Come* (1970). "The reduction of the kingdom of God to a spiritual realm is in effect a denial of the kingdom, whose claims are total. It surrenders the world to the enemy and retreats into defeat as though it were victory."[9] "The kingdom of God is now to be achieved through Jesus Christ, and its realization is reserved to him. The kingdom is approximated by man as man serves Christ faithfully in the various spheres of life—in church, state, school, calling, family, and all things else."[10] "All things else" pretty well sums it up. So, Dr. Fugate invoked the kingdom of God, which does indeed include a political dimension, as if this in any way refuted Jordan's argument, namely, that the church is not a political center. A serious debate should not use trickery... unless, of course, Dr. Fugate really is confused about the differences between the biblical content of the terms "house of God" and "kingdom of God."

2. Atonement, Not Census

Even more curious is Dr. Fugate's attempt to refute Jordan on this point: the meaning of the Hebrew word for atonement in ths context of this verse. "1. Jordan begins his deconstruction of Rushdoony's view of the head tax by arguing that the ransom (Ex. 30:12) and atonement (Ex. 30:15f.) of the Exodus 30 head tax passage were not a political covering, but a type of our redemption in Jesus Christ (1 Pet. 1:18–19)."[11] He then went on to argue that the word need not mean "atonement" or "ransom," as Jordan and I argue, but can mean "census." He referred to the "census tax"/"census money" (II Kings 12:4 NET, NKJV, NIV, NAB, etc.)[12] With this, Dr. Fugate broke decisively with Rushdoony on the interpretation of Exodus 30:12. Whatever Dr. Fugate was attempting to prove, it was the opposite of what Rushdoony explicitly taught. In Volume 2 of *The Institutes of Biblical Law* (1982), we read this.

> *Second*, in the account of the military census and the head or poll tax (Ex. 30:11–16), we are told that this tax was "atonement money" (Ex. 30:16). It protected the men of Israel from "plague" as they were numbered for military service. The word in Hebrew for plague "comes from a primitive

9. R. J. Rushdoony, *Thy Kingdom Come: Studies in Daniel and Revelation* (Vallecito, California: Ross House, [1970] 2001), p. 175.

10. *Ibid*., p. 191.

11. Fugate, *op cit.*, p. 17.

12. *Ibid*., p. 18.

> root meaning to push, Gore, defeat, slay, smite, put to the worse. The ransom was for the life of the soldier, that he might not be slain in battle."[13] In the battle against Midian (Num. 31:1–54), not a man was lost by Israel into battle. Thus, atonement here plainly means protection from physical harm.[14]

Dr. Fugate is in the unenviable position of having had his article published in a magazine published by Rushdoony's organization. He sought to prove that Jordan and I do not know what we are talking about. In demonstrating this, he invoked a line of reasoning that proves, if accurate, that Rushdoony did not know what he was talking about, either.

C. Fugate vs. North

In his third article, Dr. Fugate took me on, having had his most of his say on Jordan in the second.

> 5. Gary North adds a fifth objection: To allow temple workers to collect civil tax must result in "either an ecclesiocracy or a political tyranny," in which either church or state will rule the other. It could not be otherwise.[15]

This is indeed my position. It is the heart of my conclusion regarding Rushdoony's position. He did not cite my arguments in detail, however. He did not show why I hold this view. His readers will have no understanding of my line of reasoning. Dr. Fugate responded: "First, if God ordained the separation of church and state in the Old Testament, and since God required the regular workers in the temple precincts to be priests or Levites, then following God's instructions does not necessarily result in the blending of church and state." The point at issue is this: I argue that Rushdoony's interpretation of the temple's atonement payment asserted the existence of a God-mandated system of government in which the state used the priests to collect taxes from the population. This view not only fuses church and state, it places the church under the overall authority of the state in the area of taxation. It creates a hierarchy of authority in which the church is subservient to the state as the state's unpaid agency of tax collection.

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13. C. L. Mitton, "Atonement," in *The Interpreter's Dictionary of the Bible, A–D*, p. 310. New York: Abingdon Press, 1962.

14. R. J. Rushdoony, *Law and Society*, Volume II of *Institutes of Biblical Law* (Vallecito: California: Ross House, 1982), p. 78.

15. Robert E. Fugate, "A Critique of Jordan's and North's View of the Head Tax (Part 3 of 3)," *Faith for All of Life* (November/December 2012), p. 11.

He wrote that the state did intervene on occasion when the priests were "perhaps misallocating funds" (II Kings 12:4–16; II Chron. 24:4–14). I devoted a chapter to this incident in my commentary on the historical books.[16] The king ordered the priests to stop taking money from the people until they repaired the temple. Why was the temple broken down? Because of the violent intervention of the sons of the pagan, evil, queen Athaliah. "For the sons of Athaliah, that wicked woman, had broken up the house of God; and also all the dedicated things of the house of the LORD did they bestow upon Baalim" (II Chron. 24:7). To overcome what an evil civil government had done to God's house, the king ordered the priests to abide by their duty to God. He did not tax the temple. He did not use the priests to tax the people on his behalf. He merely ordered the priests to repair the temple. Dr. Fugate said that this incident "perhaps" refers to "misallocating funds." Perhaps? This was "misallocation" in the sense of *stealing from God*. It was a form of sacrilege. That was a capital crime in Mosaic Israel.[17] He could have charged them with sacrilege and had them tried. He chose not to. Instead, he told them to fix the temple. They refused.

Dr. Fugate continued. "Third, viewing the Exodus 30 payment as an ecclesiastical atonement rather than a civil tax (North's position) does not necessarily produce a clearly-defined and harmonious working relationship between the separate jurisdictions of church and state, as 2 Kings 12:4–16 // 2 Chronicles 24:4–14 clearly demonstrates." This ended his critique of my view on atonement money as a civil tax.

In his three arguments against my point, he provided two "not necessarilies" and a "perhaps." This is not what I would call a definitive refutation.

Conclusion

Dr. Fugate offered this summary of Rushdoony's position. I think it is accurate. "Rushdoony believed that: (a) the tabernacle and later the temple represented the Kingdom of God, including both church and state; and (b) the head tax was revenue for the state (which was

16. Gary North, *Disobedience and Defeat: An Economic Commentary on the Historical Books* (Dallas, Georgia: Point Five Press, 2012), ch. 27.

17. See the case of Achan (Josh. 7). Gary North, *Boundaries and Dominion: An Economic Commentary on Leviticus*, 2nd ed. (Dallas, Georgia: Point Five Press, [1994] 2012). Appendix A.

headquartered in the tabernacle/temple)."[18] Point (a) is in total violation of point (b). The tabernacle did represent the kingdom of God. That was Jordan's point. It was my point. This was why Rushdoony's insistence that the state used the priests to collect its only legitimate tax was in flagrant violation of the first point. The state was using the sacred (sacramental) authority of the priesthood to become the state's equivalent of the Internal Revenue Service. If Rushdoony was correct, then this arrangement would have placed the state above the church. He was not correct. His own theology should have alerted him to just how wrong his interpretation was. It was at odds with his view of the state.

This was my argument in 1990. Dr. Fugate warily avoided coming to grips with it.

Note: I wrote this appendix two days after the final version of my revised six-volume Exodus commentary had been re-typeset. I did so, not because I regard Dr. Fugate's articles as a major challenge to my interpretation of the atonement payment, but because I do not want anyone to say, "North could not answer Fugate." I waited 22 years for someone to comment on my chapter. I figured I should spend a few hours writing a brief response. A longer response is not necessary.

18. Fugate, "Part 3," p. 12.